

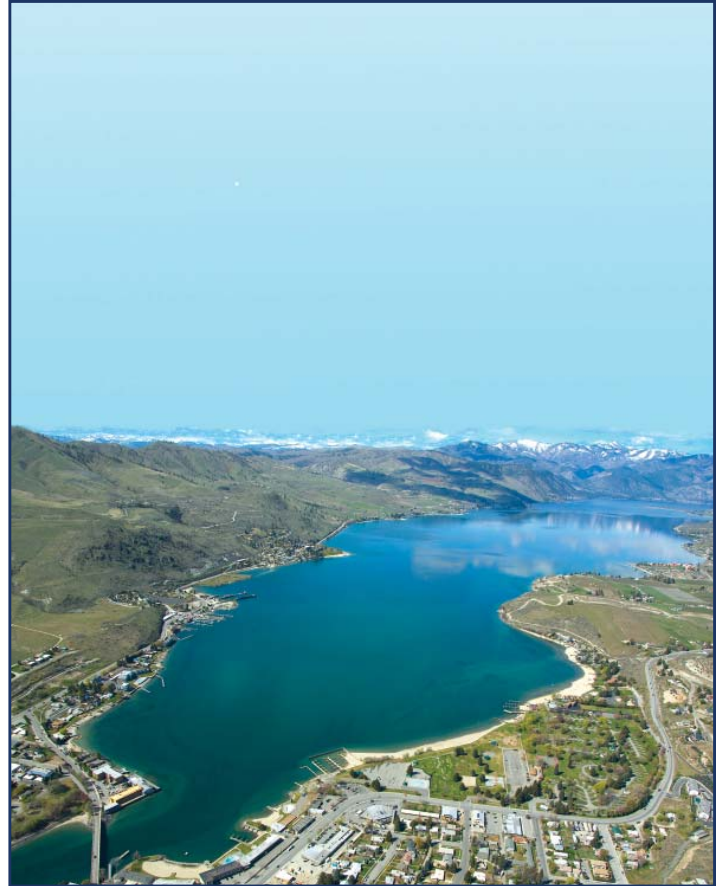
CHELAN COUNTY AND THE CITIES OF CASHMERE, CHELAN,  
ENTIAT, LEAVENWORTH, AND WENATCHEE

# Shoreline Master Program Update

REVISED PUBLIC DRAFT • AUGUST 31, 2010

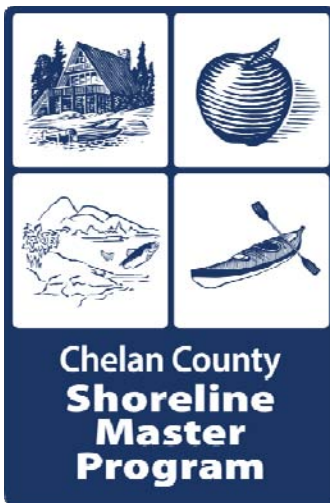


Chelan County  
**Shoreline  
Master  
Program**





Chelan County  
Grant No. G0800231



**REVISED PUBLIC DRAFT**

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**SHORELINE MASTER PROGRAM for  
Shorelines in Chelan County and the  
Cities of Cashmere, Chelan, Entiat,  
Leavenworth and Wenatchee**

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**Project: Comprehensive Shoreline Master Program  
Update**

- **Task 8: Develop general SMP goals, policies and regulations**

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**31 August 2010**



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# **DRAFT SHORELINE MASTER PROGRAM CHELAN COUNTY AND CITIES OF CASHMERE, CHELAN, ENTIAT, LEAVENWORTH AND WENATCHEE**

## **READER'S GUIDE**

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

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

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

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

Universal Chapters: County and all Cities

- Chapter 1 Authority and Purpose
- Chapter 2 Goals and Objectives
- Chapter 3 Shoreline Jurisdiction and Environment Designations

## **DRAFT Chelan County Shoreline Master Program**

- Chapter 4 General Policies and Regulations
- Chapter 5 Shoreline Modifications and Uses
- Chapter 6 Nonconforming Uses and Development Standards
- Chapter 7 Shoreline Permits, Procedures and Administration
- Chapter 8 Definitions

### Jurisdiction-Specific Chapters in addition to Universal Chapters

- Chapter 9 Chelan County
- Chapter 10 City of Cashmere
- Chapter 11 City of Chelan
- Chapter 12 City of Entiat
- Chapter 13 City of Leavenworth
- Chapter 14 City of Wenatchee

Chapters 1 through 8 represent “universal” goals, policies and regulations applicable to all the local governments, while Chapters 9 through 14 represent the “unique” chapters applicable only to the local government named. The unique chapters may supplement or supersede the provisions of the universal chapters. The unique chapters have subsections that follow the order of the universal chapters.

To guide the reader, most sections or provisions show the source of the goal, policy, or regulation either in the body of the text or in parentheses, which may include citations to: the Shoreline Management Act (RCW 90.58), State Shoreline Master Program Guidelines, (WAC 173-26), State Shoreline Management Permit and Enforcement Procedures (WAC 173-27), current Chelan County Shoreline Master Program provisions, current County or City comprehensive plan elements, or other example SMPs recently adopted and approved by the State.

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

- Shall or must: means a mandate; the action must be done.

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

In general, this Draft SMP uses the word “should” in goals, objectives, and policies, and “shall” in the regulations. Additional definitions are located in Chapter 8, as well as in jurisdiction-specific sections of Chapters 9 to 14.

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

This Draft SMP is the first draft provided for public review, and it is expected that as a part of public review, and later as part of the State review and approval process, further drafts will be issued showing how contents have changed and responded. More information about the SMP public review process and opportunities for public comment and public meetings can be found at: [http://www.co.chelan.wa.us/nr/nr\\_shoreline\\_master\\_program.html](http://www.co.chelan.wa.us/nr/nr_shoreline_master_program.html).



# 1 AUTHORITY AND PURPOSE

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## 1.1 The Shoreline Management Act

Washington State's citizens voted to approve the Shoreline Management Act of 1971 in November 1972. The adoption of the Shoreline Management Act (Act) recognized "that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation" and that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest" (RCW 90.58.020). The Act seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses as follows: (RCW 90.58.020)

*The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.*

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

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*The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:*

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

*In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

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

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

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

In recognition of the Act and citizen ideas collected through a local shoreline planning process, Chelan County and the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee (collectively “Cities”) have developed this Shoreline Master Program (SMP), and continually implement and administer it through shoreline permits and reviews. The Washington State Department of Ecology (Ecology) reviews and approves local master programs and certain local permit decisions.

## **1.2 Authority**

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

## **1.3 Applicability**

All proposed uses, activities, and development occurring within shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58 RCW, the Act, and this SMP whether or not a permit or other form of authorization is required. See Chapter 3 for the definition of shoreline jurisdiction. (RCW 90.58.140(1) and WAC 173-26-191)

The shoreline permit procedures, policies and regulations established in this Shoreline Master Program shall apply county-wide to all nonfederal developments and uses undertaken on federal lands, and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership. Federal lands include, but are not limited to, National Forests, National Parks, National Wilderness Areas,

and lands owned by the Federal Bureau of Land Management (BLM). (WAC 173-27-060)

As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.

## **1.4 Purpose and Intent**

The purposes of this SMP are:

- A. To promote the public health, safety, and general welfare of the community by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and (WAC 173-26-241(2)(a)(ii))
- B. To further assume and carry out the local government responsibilities established by the Act in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the Act in RCW 90.58.020; and
- C. Promote reasonable and appropriate use of the shorelines which will not jeopardize public and private interests; and (1975 SMP Overall Goal 1)
- D. Protect against adverse effects to the land, its vegetation and wildlife, and the waters and their aquatic life within jurisdictional shorelines; and (1975 SMP Overall Goal 2) (WAC 173-26-241(2)(a)(ii))
- E. To give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas; and (WAC 173-26-241(2)(a)(i))
- F. Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses; and (WAC 173-26-241(2)(a)(iii)).
- G. Assure no net loss of ecological functions associated with the shoreline; and (WAC 173-26-241(2)(a)(iv)).
- H. Protect rights of navigation; and (1975 SMP Overall Goal 3)



- I. Recognize and protect private property rights while implementing the policies of the Shoreline Management Act; and (1975 SMP Overall Goal 4)
- J. Maintain or recreate a high quality of environment along jurisdictional shorelines; and (1975 SMP Overall Goal 5)
- K. Preserve and protect fragile natural resources and cultural significant features; and (1975 SMP Overall Goal 6)
- L. Increase public access to publicly owned areas of the shorelines where increased use levels are desirable; and (1975 SMP Overall Goal 7)
- M. Protect public and private properties from adverse effects of improper development in hazardous shoreline areas; and (1975 SMP Overall Goal 8)
- N. Recognize the importance of an informed and responsible public observing basic rules of good behavior in the use and enjoyment of all shorelines. (1975 SMP Overall Goal 9)

## **1.5 Relationship to Other Codes, Ordinances and Plans**

All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction.

Consistent with RCW 36.70A.480, the goals and policies of this SMP approved under chapter 90.58 RCW shall be considered an element of Chelan County's and the Cities' comprehensive plans. All regulatory elements of this SMP, including, but not limited to definitions and use regulations, shall be considered a part of Chelan County's and the Cities' development regulations. The County shall apply City regulations in unincorporated urban growth areas as described in Chapter 9.

In the event provisions of this SMP conflict with provisions of Federal, State, County or City regulations, the provision that is most protective of shoreline resources shall prevail, when consistent with policies set out in the Act. (RCW 90.58.900; WAC 173-26-221(6)(b)(ii))

## **1.6 Liberal Construction**

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this SMP shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which they were enacted. (1975 SMP Section 40; RCW 90.58.900)

## **1.7 Severability**

Should any section or provision of this SMP be declared invalid, such decision shall not affect the validity of this SMP as a whole. (Common ordinance construction; RCW 90.58.910)

## **1.8 Effective Date**

The SMP is hereby adopted on the XX date of XX, 2010. This SMP and all amendments thereto shall become effective immediately upon final approval and adoption by Ecology. (RCW 90.58.090(7))

## 2 GOALS AND OBJECTIVES

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

### 2.1 Economic Development Element (RCW 90.58.100(2)(a))

**Goal ED-1.** Permit those commercial, industrial, recreational, and other developments requiring a shoreline location which may contribute to the economic well-being of Chelan County and the Cities, yet result in no net loss to the environment. (1975 SMP Goal A)

**Objective ED-1.** Encourage shoreline development that has a positive effect upon community economic and social activities and which results in no net loss of ecological functions and results in mitigation of adverse impacts to other shoreline resources and values.

**Objective ED-2.** Promote new water-dependent, water-related, and water-enjoyment economic development. (WAC 173-26-241(2)(a)(iii))

**Objective ED-3.** Promote environmental education as part of economic development activities.

### 2.2 Public Access Element (RCW 90.58.100(2)(b))

**Goal PA-1.** Ensure public access to shorelines:

- Is safe, convenient and diversified; (1975 SMP Goal B)
- Makes provisions for public access to publicly owned shoreline jurisdiction areas; (WAC 173-26-176(3), WAC 173-26-191(1)(b); based on 90.58.100(2))
- Avoids endangering life or adverse effects on property or fragile natural features; (1975 SMP Goal B)
- Minimizes conflicts between the public and private property; (1975 SMP Goal B)

## DRAFT Chelan County Shoreline Master Program

- enables the public to enjoy the physical and aesthetic qualities of natural shorelines of the state which shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally; and (WAC 173-26-176(3)(b) from RCW 90.58.020)
- That alters the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state. (WAC 173-26-176(3)(b) from RCW 90.58.020)

**Objective PA-1.** Increase public access to shorelines by developing and implementing parks, recreation, and trails plans. (WAC 173-26-221(4)(c))

**Objective PA-2.** Require public access as part of public shoreline development where appropriate. (WAC 173-26-221(4)(d)(ii))

**Objective PA-3.** Require and/or encourage public access as part of private shoreline development in accordance with adopted jurisdiction shoreline public access plans, where appropriate. (WAC 173-26-221(4)(d)(iii))

**Objective PA-4.** Protect and enhance visual and physical access to shorelines. (WAC 173-26-221(4)(d)(iv))

**Objective PA-5.** Assure that public access improvements do not result in a net loss of shoreline ecological functions.

**Objective PA-6.** Encourage development of public access by using tools such as acquisition of land, incentives, etc.

### 2.3 Recreation Element (RCW 90.58.100(2)(c))

**Goal REC-1.** Promote diverse, convenient, and adequate recreational opportunities along public shorelines for local residents and visitors. (1975 SMP Goal D)

**Objective REC-1.** Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities. (WAC 173-26-241(3)(i))

**Objective REC-2.** Ensure shoreline recreation facilities are preserved and enlarged as necessary to serve projected County and City growth in accordance with adopted levels of service. (WAC 173-26-241(3)(i))

## 2.4 Circulation Element (RCW 90.58.100(2)(d))

**Goal CIRC-1.** Since major transportation and utility systems pre-exist near many shorelines, minimize conflicts between these systems and shoreline uses when considering circulation additions or modifications. (1975 SMP Goal C)

**Objective CIRC-1.** Encourage multiple modes of transportation. (WAC 173-26-241(3)(k))

**Objective CIRC-2.** Promote non-motorized travel and public access opportunities. (WAC 173-26-241(3)(k))

**Objective CIRC-3.** Encourage water-dependent transportation where appropriate. (RCW 90.58.020)

**Objective CIRC-4.** Locate new or expanded road corridors for motorized vehicles outside of shoreline jurisdiction unless there is no reasonably feasible alternative or location. (WAC 173-26-241(3)(k))

**Objective CIRC-5.** Locate new utilities outside shoreline jurisdiction unless water crossings are unavoidable or utilities are required for authorized shoreline uses consistent with this SMP.

## 2.5 Shoreline Use Element (RCW 90.58.100(2)(e))

**Goal LU-1.** Assure an appropriate pattern of sound development in suitable locations without diminishing the quality of the environment along shorelines. (1975 SMP Goal E)

**Objective LU-1.** Give preference along the shoreline to water-oriented and single-family residential uses, consistent with the control of pollution and prevention of damage to the natural environment. (RCW 90.58.020)

**Objective LU-2.** Encourage shoreline uses and development that enhance and/or increase public access to the shoreline or provide significant public benefit. (WAC 173-26-241(3) (d), (f), (i), (j) and WAC 173-26-221(4))

**Goal LU-2.** Consider irrigated agriculture as a water-related use and a key factor in the economy of Chelan County and the Cities. Other shoreline uses should not jeopardize production on designated agricultural lands. (1975 SMP Goal H).

**Objective LU-3.** Protect current agricultural activities occurring on agricultural land and provide for new agricultural uses are located and designed to assure no net loss of ecological functions and do not have a

significant adverse impact on other shoreline resources and values.  
(WAC 173-26-241(3)(a)(ii))

## **2.6 Conservation Element (RCW 90.58.100(2)(f))**

**Goal CONS-1.** Protect shoreline resources by:

- Preserving unique, fragile, and scenic elements;
- Conserving non-renewable natural resources; and
- Managing renewable resources such as timber, water, and wildlife. (1975 SMP Goal G)

**Objective CONS-1.** Provide for no net loss of shoreline ecological function.

**Goal CONS-2.** Encourage the restoration of shoreline areas which have been modified, blighted, or otherwise disrupted by natural or human activities. (1975 SMP Goal I)

**Objective CONS-2.** Ensure restoration and enhancement is consistent with and prioritized based on adopted watershed and basin plans. (Recognizes County and City restoration plans; WAC 173-26-186 (8)(c))

## **2.7 Historic, Cultural, Scientific, and Educational Element (RCW 90.58.100(2)(g))**

**Goal HIST-1.** Protect and restore areas having significant historic, cultural, educational or scientific values. (1975 SMP Goal F)

**Objective HIST-1.** Encourage the preservation of outstanding natural and scenic resources, environmentally sensitive areas, and significant historic and cultural resources. (Chelan County Comprehensive Plan Open Space/Recreation Goal 1, Policy 4)

**Goal HIST-2.** Protect shoreline features to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal and federal authorities. (Recommendations by State Department of Archaeology and Historic Preservation (DAHP))

**Objective HIST-2.** Protect sites in collaboration with appropriate tribal, state, federal, and local governments. Encourage cooperation among public and private parties in the identification, protection, and management of cultural resources. (Recommendations by DAHP)

**Objective HIST-3.** When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource.  
(Recommendations by DAHP)

**Objective HIST-4.** Provide opportunities for education related to archaeological, historical and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs and development. (Recommendations by DAHP)

## **2.8 Flood Hazard Prevention Element (RCW 90.58.100(2)(h))**

**Goal FLOOD-1.** Recognize the hydrologic functions of floodplains, and protect frequently flooded areas. (WAC 173-26-241(4) and Comprehensive Plans, including Chelan County Policy LU-4; Leavenworth Policy LU-1)

**Objective FLOOD-1.** Discourage land use practices that may impede the flow of floodwater or cause danger to life or property. Mitigate the loss of floodplain storage capacity to avoid greater impact of flooding downstream. (WAC 173-26-221(3) and Comprehensive Plans, including Chelan County Policy LU-5 and; Leavenworth Policy LU-2; Cashmere Frequently Flooded Areas Policies; Entiat Policy LU 13.3)

**Objective FLOOD-2.** Implement the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. (Comprehensive Plans: Chelan County Policy LU-4; Leavenworth Policy LU-1)

**Objective FLOOD-3.** Seek to map areas that are potential flood hazard areas and/or have experienced historical flooding events, but are not currently included in the Federal Emergency Management Agency's mapping efforts. (Comprehensive Plans: Cashmere Frequently Flooded Areas Policies; Entiat Policy LU 13.3)

**Objective FLOOD-4.** Prepare and implement channel migration zone plans. (Based on WAC 173-26—221(3)and County prepared CMZ plans)

**Objective FLOOD-5.** Coordinate shoreline jurisdiction flood hazard prevention policies and regulations with Growth Management Act provisions to protect critical areas including frequently flooded areas.





## 3 SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

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### 3.1 Shoreline Jurisdiction

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

Shorelands are minimally defined as:

*“those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter....” (RCW 90.58.030)*

Local jurisdictions may voluntarily elect to expand shoreline jurisdiction to include part or all of the remaining floodplain area that is located beyond 200 feet from either the ordinary high water mark or the floodway, or to include the buffers of associated wetlands that would otherwise be located outside of shoreline jurisdiction (see Appendix E for graphical illustrations of these options prepared by the Washington Department of Ecology).

The upstream extent of shoreline jurisdiction for streams and those lakes that meet shoreline criteria are indicated on the Official Shoreline Maps included in Appendix A. The purpose of the Official Shoreline Maps is to identify Environment Designations (Section 3.2 below). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway, and presence of associated wetlands.

In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any use, activity or development on that portion of the parcel is subject to this Shoreline Master Program. The other portions of the parcel are still subject to all County or City planning and zoning ordinances. County and City planning shall include concurrency planning with this SMP.

## **3.2 Environment Designations**

### **3.2.1 Environment Designation System**

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

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

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

### **3.2.2 Official Shoreline Map and Unmapped or Undesignated Shorelines**

- A. Appendix A (Shoreline Jurisdiction Boundaries and Environment Designations Maps) includes the Official Shoreline Maps, which illustrate the delineation of shoreline jurisdiction environment designations in Chelan County.
- B. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy

results in inclusion of an unmapped associated wetland, that wetland shall be assigned a Natural environment designation.

- C. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned a Conservancy or Urban Conservancy designation, in the County or in the Cities and their Urban Growth Areas respectively, until the shoreline can be redesignated through an SMP amendment.
- D. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain jurisdiction as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Note that the actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations are valid for two years. Floodplain and floodway boundaries should be assessed using the most recently revised FEMA maps.

### **3.2.3 Interpretation of Environment Designation Boundaries**

- A. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail.
- B. If disagreement develops as to the exact location of an environment designation boundary line, the following rules shall apply:
  - 1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed. Where boundary line adjustments or other modifications are not indicated on the Official Shoreline Maps and where the adjustments involve two or more parcels with different environment designations, a designation of Conservancy or Urban Conservancy, in the County or in the Cities and their Urban Growth Areas respectively, shall be assigned to shoreline jurisdiction on the subject properties until the shoreline can be redesignated through an SMP amendment.
  - 2. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow the nearest right-of-way edge.
  - 3. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed.

- C. In the event of an environment designation mapping error, the Shoreline Administrator shall utilize the criteria contained in RCW 90.58.030(2), chapter 173-22 WAC, and the environment designation criteria contained in this SMP to establish the appropriate environment designation. Appeals of such interpretations may be filed pursuant to Section 7.13 and each local government's appeal procedures referenced in Chapters 9 through 14 of this SMP.
- D. All shoreline areas waterward of the OHWM shall be designated Aquatic.
- E. Upland environment designations shall apply to shorelands.
- F. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature or clearly described boundary.

### **3.3 Shoreline Use Preferences**

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

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

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

*and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state....*

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

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

- (i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.*
- (ii) Reserve shoreline areas for water-dependent and associated water related uses ... Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.*
- (iii) Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.*
- (iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.*
- (v) Limit non-water-oriented uses to those locations where the above described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.*

### **3.4 Shorelines of Statewide Significance**

#### **3.4.1 Designation Criteria**

In Chelan County, shorelines of statewide significance include those lakes, whether natural, artificial, or a combination thereof, with a surface area greater than or equal to 1,000 acres measured from the OHWM, and natural rivers or segments thereof downstream of a point where the annual flow is measured at two hundred (200) cubic feet per second or more, or those portions of rivers east

downstream from the first three hundred (300) square miles of drainage area, whichever is longer.

### **3.4.2 Use Preferences**

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in Chelan County and the Cities, as defined in RCW 90.58.030(2)(e) and listed in Sections 9.3.4 through 14.3.4 of this SMP. Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order of preference that are consistent with the statewide interest in such shorelines. These are uses that:

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

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

### **3.4.3 Policies**

Consistent with the use preferences for shorelines of statewide significance contained in RCW 90.58.020 and identified in Section 3.4.2, the responsible local government will base decisions administering this SMP on the following policies in order of decreasing priority: (WAC 173-26-251(3)(a-e) and WAC 173-26-251(2))

- A. Recognize and protect the state-wide interest over local interest.
  1. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to the Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent jurisdictions, citizen's advisory committees and local officials, and state-wide interest groups.
  2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.

3. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.
- B. Preserve the natural character of the shoreline.
1. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.
  2. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.
  3. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.
  4. Protect and restore habitats for State-listed “priority species.”
- C. Support actions that result in long-term benefits over short-term benefits.
1. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
  2. Preserve resources and values of shorelines of statewide significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
  3. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, and unique environments.
- D. Protect the resources and ecology of the shoreline.
1. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.2.2 to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result

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in no net loss of shoreline ecosystems and ecosystem-wide processes.

2. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
- E. Increase public access to publicly owned areas of the shoreline.
1. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.
  2. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.
- F. Increase recreational opportunities for the public on the shoreline.
1. Plan for and encourage development of facilities for public recreational use of the shoreline.
  2. Reserve areas for lodging and related facilities on uplands well away from the shorelines, with provisions for nonmotorized access to the shoreline.



## 4 GENERAL POLICIES AND REGULATIONS

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

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

### 4.1 Archaeological and Historic Resources

#### 4.1.1 Policies

- A. **Preservation, Restoration, Education.** Whenever possible, archeological or historic sites should be permanently preserved for scientific study and public observation. In areas known to contain significant archaeological and historic data, a condition should be placed on shoreline permits which would allow for site inspection and evaluation to ensure proper salvage of such data. (1975 SMP Policy 16.a)
- B. **Impact Avoidance.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State Department of Archaeology and Historic Preservation or that have been inadvertently uncovered.

Any proposed site development and/or associated site demolition work should be planned and carried out so as to avoid impacts to the cultural resource or to provide appropriate mitigation. Impacts to neighboring properties and other shoreline uses should be limited to temporary or reasonable levels. (Recommended by DAHP)

- C. **Consultation.** Consultation with professional archaeologists and historians is encouraged to identify areas containing potentially valuable archaeological data, and to establish procedures for salvaging data. Appropriate agencies to consult include, but are not limited to, the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Washington State Department of Archaeology and Historic Preservation (DAHP). (1975 SMP Policy 16.b)

- D. **Adjacent Cultural Site.** If development or demolition is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site. (Recommended by DAHP)

#### 4.1.2 Regulations

- A. **Known Archaeological Resources.** The responsible local government shall require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes. (WAC 173-26-221(1)(c))
- B. **Uncovered Archaeological Resources.** Developers and property owners shall immediately stop work and notify the responsible local government, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation. (WAC 173-26-221(1)(c))
- C. **Historic Resources.** Where a professional archaeologist or historian, recognized by the State of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, the responsible local government may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC, as well as the provisions of this master program. (Based on 1975 SMP Section 27.1 and WAC 173-26-221(1))

## 4.2 Ecological Protection and Critical Areas

### 4.2.1 Policies (based on WAC 173-26-201(2)(c) and 173-26-221(2))

- A. **No net loss of ecological functions.** Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts, both on site and to the extent that impacts may propagate up- or downstream, so that the resulting ecological condition does not become worse than the current condition. For each development, this means

assuring no net loss of ecological functions and processes relative to the existing condition, protecting critical areas designated in Appendix B of this SMP, and protecting additional established shoreline buffers in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

- B. **Consider project and cumulative impacts.** In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.
- C. **Development standards should protect functions.** Development standards for density, frontage, buffers, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the Shoreline Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

#### 4.2.2 **Regulations (based on WAC 173-26-201(2)(c and e) and 173-26-221(2))**

- A. **Mitigation sequencing.** Applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts to ecological function resulting from new development and redevelopment in shorelines in the following prioritized order: (WAC 173-26-201(2)(e)(i))
  1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
  3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

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

- B. **Applicability.** The provisions of this Section and Appendix B, Critical Areas Regulations, shall apply to any use, alteration or development within shoreline jurisdiction, whether or not a shoreline permit or written statement of exemption is required.
- C. **Protection of buffers.** Unless otherwise stated, critical area buffers and shoreline buffers shall be protected and/or enhanced pursuant to Appendix B and all other applicable provisions of this SMP.
- D. **Mitigation required for impacts.** Mitigation shall be required for all projects within shoreline jurisdiction, including those waterward of the OHWM, having impacts on ecological functions. Mitigation ratios are specifically established in Appendix B, Critical Areas Regulations, for impacts to wetlands and wetland buffers. All other mitigation must be designed to result in no net loss of ecological functions to the extent feasible. In general, mitigation is required at a ratio of one unit of mitigation for one unit of impact by area. However, depending on the nature and extent of impacts and proposed mitigation, a reduction in the ratio may be allowed or an increase in the ratio may be required to meet the no net loss of ecological functions standard if justified in a plan submitted to the responsible local government. (WAC 173-26-201(2)(e))
- E. **Location of mitigation.** When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require

appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. (WAC 173-26-201(2)(e)(ii)(B))

- F. **Hydrologic connections.** Protect hydrologic connections between waterbodies and associated wetlands.
- G. **Cumulative effects.** The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved. The cumulative impacts analysis conducted by the applicant for the project should follow the framework of the cumulative impacts analysis completed for this Shoreline Master Program. Where the project deviates from the assumptions of the programmatic analysis, additional project-related analysis should be completed demonstrating how the goal of no net loss of ecological functions will be met in spite of those deviations. Depending on the project, additional mitigation may be required to offset cumulative impacts.

### 4.3 Flood Hazard Reduction

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

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

Chelan County and the Cities implement flood hazard reduction through the following means:

- Plans and Policies: Growth Management Act comprehensive plans, Multi-Jurisdiction Natural Hazard Mitigation Plan, watershed plans, and channel migration zone plans have been developed by Chelan County, the Cities, and

other agencies and address flood hazard reduction policies, programs, restoration actions, and other capital improvements.

- Regulations: critical area, floodplain and stormwater regulations.

### **4.3.1 Policies**

- A. **Implement flood hazard plans and regulations.** Responsible local governments should ensure public and private development applications site and design flood control measures consistent with appropriate engineering principles, including guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, Chelan County Multi-Jurisdiction Natural Hazard Mitigation Plan, watershed plans, channel migration zone plans, restoration plans, critical area regulations, floodplain regulations, and stormwater management plans and regulations in order to prevent flood damage, maintain the natural hydraulic capacity of floodways, and conserve limited resources such as fish habitat, water, and soil. (WAC 173-26-221(3)(b)(ii) and (iii))
- B. **No net loss of ecological functions.** Flood protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, streams and lakes. (WAC 173-26-221(3)(b)(iv))
- C. **Non-structural methods preferred.** Where feasible, non-structural methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works. Non-structural methods may include, but are not limited to, shoreline buffers, land use controls, use relocation, wetland restoration, dike removal, biotechnical measures, stormwater management programs, land or easement acquisition, voluntary protection and enhancement projects, or incentive programs. (WAC 173-26-221(3)(b)(i) and (vi))
- D. **Avoid structural flood control works.** New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a river, channel migration zone, floodway, or lake should not be allowed. (WAC 173-26-221(3)(c)(i))
- E. **When non-structural flood control is infeasible.** New structural flood control works should only be allowed in shoreline jurisdiction when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development or mitigate or resolve existing stormwater problems, that impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, that appropriate vegetation conservation actions are undertaken,

and where non-structural flood hazard reduction measures are infeasible. (WAC 173-26-221(3)(c)(ii))

- F. **Bioengineered flood control works.** Responsible local governments should facilitate returning river and stream corridors to more natural hydrological conditions. Unless otherwise determined infeasible by federal or state agencies with permit authority or by the Shoreline Administrator, flood control works should be bioengineered to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. (WAC 173-26-221(3)(b)(v) and (vii))
  
- G. **Avoid damage to other properties.** Flood control works and shoreline uses, development, and modifications should be located, designed, constructed and maintained so their resultant effects on geo-hydraulic shoreline processes will not cause significant damage to other properties or shoreline resources, and so that the physical integrity of the shoreline corridor is maintained. (WAC 173-26-221(3)(b)(v))

#### 4.3.2 Regulations

- A. **Avoid increase in flood hazards.** Development in floodplains shall, consistent with applicable flood hazard plans and regulations, avoid significantly or cumulatively increasing flood hazards.<sup>1</sup> Development shall be consistent with all responsible local government regulations including critical areas regulations (SMP Appendix B), stormwater regulations (Section 4.6 of this SMP), in-water structure regulations (Section 5.12 of this SMP), as well as guidelines of the Natural Resource Conservation Service, the U.S. Army Corps of Engineers, and the responsible local government's comprehensive flood hazard management

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<sup>1</sup> Cities flood hazard regulations include standards similar to the following: "The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point." Chelan County flood hazard regulations indicate "No fill, including fill for roads, and levees; grading; or excavating that unduly affects the efficiency or the capacity of the channel or floodway, or unduly decreases flood storage or increases flood heights, shall be permitted. Any fill proposed to be deposited in a flood hazard area shall not be contrary to the need for storage of floodwater nor shall the amount of fill proposed be greater than is necessary to achieve the purpose for which the fill is intended. Fill materials shall be clean with a minimum potential for degrading water quality. All fill materials shall be protected against erosion with retaining walls or other mechanisms to deter erosions. If vegetative cover is chosen, the side slopes of the fill should not exceed two units of horizontal distance to one unit of vertical distance." These provisions are being added to Appendix B, Critical Areas Regulations.

plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.<sup>2</sup> (WAC 173-26-221(3)(c)(i))

**B. Channel migration zone (CMZ) Maps.**

1. Channel migration zone maps prepared consistent with WAC 173-26-221(3)(b) are included in Appendix F of this SMP. These maps provide complete coverage of waterbodies in Chelan County that have potential for channel migration. The responsible local government shall utilize these maps in shoreline application reviews.
2. Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they do not agree with the mapping in Appendix F.

**C. Documentation.** Documentation of alternate channel migration zone boundaries must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. (based on WAC 173-26-221(3)(b)) and comments by U.S. Fish and Wildlife Service)

**D. Uses and activities authorized in floodway or CMZ.** The following uses and activities may be authorized where appropriate and/or necessary within the channel migration zone (CMZ) or floodway: (WAC 173-26-221(3)(c)(i))

1. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
2. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.
3. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.

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<sup>2</sup> There is no comprehensive flood hazard management plan, but there is a Chelan County Multi-Jurisdiction Natural Hazard Mitigation Plan, approved in 2004. It is being updated in 2010. See [http://www.chelandem.org/documents/Chelan%20County%20Hazard%20Plan%20\\_Final%20Draft\\_%200630041.pdf](http://www.chelandem.org/documents/Chelan%20County%20Hazard%20Plan%20_Final%20Draft_%200630041.pdf) and [http://www.co.chelan.wa.us/nr/data/matrix\\_of\\_change\\_chelan\\_county\\_final\\_draft.pdf](http://www.co.chelan.wa.us/nr/data/matrix_of_change_chelan_county_final_draft.pdf).



4. Mining when conducted in a manner consistent with Section 5.13 Mining, and the shoreline environment designation.
5. Bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs and the long-term maintenance or repair costs are not significantly different between options inside or outside of the floodway or channel migration zone. For the purposes of this section “unreasonable and disproportionate” means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost.<sup>3</sup> Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.
6. Repair and maintenance of an existing legally established use, provided that channel migration is not further limited, or flood hazards to other uses increased, and that the new development includes appropriate protection of ecological functions.
7. Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding and where necessary for protection of existing structures or public safety.
8. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.
9. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of impacts to ecological functions associated with the river or stream.

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<sup>3</sup> The 20% figure is based on WSDOT’s practices in determining whether sidewalks will be provided with state roads. (pers. com. Paula Reeves, WSDOT, email to WAAPA list serve, April 24, 2009).

- E. **Structural flood hazard reduction measures.** New structural flood hazard reduction measures in shoreline jurisdiction shall be allowed only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with SMP Section 4.5, Vegetation Conservation and Shoreline Buffers. (WAC 173-26-221(3)(c)(ii)) Structural flood hazard reduction measures shall be consistent with the responsible local government's comprehensive flood hazard management plan and/or Multi-Jurisdiction Natural Hazard Mitigation Plan.
  
- F. **Placement of structural flood hazard reduction measures.** New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis. (WAC 173-26-221(3)(c)(iii))
  
- G. **Public access.** See Section 4.4.2. (WAC 173-26-221(3)(c)(iv))
  
- H. **Gravel removal.** The removal of gravel for flood management purposes shall be consistent with Section 5.8, Dredging and Dredge Material Disposal and Section 5.13, Mining, and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution. (WAC 173-26-221(3)(c)(v))
  
- I. **New development and subdivisions.** Approve new development or subdivisions when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use consistent with the following. (WAC 173-26-221(3)(c)(i))
  - 1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in Appendix B.
  - 2. Channel Migration Zone:

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- a. New development in the channel migration zone is allowed subject to:
  - (1) Structures are located on an existing legal lot created prior to XXXX (adoption of SMP);
  - (2) A feasible alternative location outside of the channel migration zone is not available on-site; and
  - (3) To the extent feasible, the structure and supporting infrastructure is located the farthest distance from the OHWM, unless the applicant can demonstrate that an alternative location is the least subject to risk.
  
- b. New subdivisions in the channel migration zone may be allowed subject to:
  - (1) All lots contain five-thousand square feet or more of buildable land outside of the channel migration zone;
  - (2) Access to all lots does not cross the channel migration zone; and
  - (3) All infrastructure is located outside the channel migration zone except that an on-site septic system is allowed in the channel migration zone if: a feasible alternative location is not available on-site, and to the maximum extent practical, the septic system is located the farthest distance from the OHWM.

J. **Roads and railroads.** Roads or railroads shall be built outside the floodway except for necessary crossings, and repair or maintenance of existing roads and railroads. New transportation facilities shall be designed so that no significant loss of floodway capacity or measurable increase in predictable flood levels will result based on studies submitted by applicants and approved by the responsible local government. If proposed transportation facilities are intended to secondarily provide flood control, they shall comply with policies and regulations of Section 4.3, Flood Hazard Reduction. (WAC 173-26-241(3)(k))

## 4.4 Public Access

### 4.4.1 Policies

- A. **Types of public access.** Public access includes both physical and visual approaches to shorelines. Scattered, small access points with low levels of alteration are preferred by some recreators for certain uses (e.g., fishing), but not others (e.g., RV camping, swim beaches, picnicking, event facilities).
- B. **Increase public access where appropriate.** Chelan County and Cities should seek to increase the amount and diversity of public access to shorelines consistent with shoreline public access plans, the natural shoreline character, property rights, public rights under the Public Trust Doctrine<sup>4</sup>, and public safety.
- C. **Priorities.** Public access should be maintained, enhanced, and increased in accordance with the following priorities unless found infeasible:
1. Maintain existing public access sites and facilities, rights of way, and easements.
  2. Provide new or enhance existing public access opportunities on existing public lands and easements.
  3. Acquire property or easements to add public access opportunities to implement adopted public access plans and/or to recognize opportunities to protect areas that hold unique value for public enjoyment.
  4. Encourage public access to shorelines as part of shoreline development activities.
- D. **Public access planning standards.**
1. Chelan County should, in partnership with other federal, state, special district, and municipal agencies, aim for a shoreline public access system that results in:

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<sup>4</sup> The “public trust doctrine” is a common law principle holding that “the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses.” While the doctrine “protect(s) public use of navigable water bodies below the ordinary high water mark,” the doctrine “does not allow the public to trespass over privately owned uplands to access the tidelands.” See:

[http://www.ecy.wa.gov/programs/sea/sma/laws\\_rules/public\\_trust.html](http://www.ecy.wa.gov/programs/sea/sma/laws_rules/public_trust.html).

- a. More than 90% of resident population within 15 miles of regional boating, fishing, trails, parks, and open space facilities.
    - b. More than 50% of resident population within 1.5 miles of local/community shoreline parks and trails.
  2. Cities should implement planning standards that are consistent with their adopted parks and recreation plans as identified in Appendix G.
- E. **Implementation.** Chelan County and the Cities should implement shoreline public access plans contained in Appendix G that focus on development of shoreline recreation to meet growing resident populations and tourists. Implementation strategies should address public access and recreation standards and a capital improvement program. The County and Cities should periodically review the shoreline public access plans, every seven years. (RCW 90.58.080)
- F. **Public access exceptions.** Public access should not be required where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.
- G. **Willing property owners.** Local governments and other agencies should seek willing property owners to participate in public access projects. Where purchase of property is negotiated, local governments, agencies, or private parties seeking off-site mitigation areas are obligated to pay fair market value for private properties included in public access projects.
- H. **Respect private property.** Public access does not include the right to enter upon or cross private property, except on dedicated public rights-of-way or easements or where development is specifically designed to accommodate public access. The design of public access should minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, and may be achieved by providing adequate space, and/or through screening with landscape planting or fences.
- I. **Safety and environment.** Design of public access should be consistent with public safety and preservation/conservation of the natural amenities. Where public access is determined to be incompatible due to reasons of safety, security, or impact to the shoreline, the proponent should consider alternate methods of providing public access, such as offsite

improvements, viewing platforms, separation of uses through site planning and design and restricting hours of public access. Off-site public access improvements may be allowed if such improvements would provide a greater public benefit and reduce safety and environmental impacts.

- J. **Visual access.** Views to shorelines contribute to the Chelan County quality of life, tourism economy, and property values. Flexible development standards, such as height, bulk, scale, setbacks, lighting, and view corridors, should be established to assure preservation of unique, fragile, and scenic elements and to protect existing views from public property or large numbers of residences.
- K. **Roads, streets, and alleys abutting bodies of water.** Roads, streets, and alleys abutting bodies of water should be preserved, maintained, consolidated enhanced, and/or created for public access. Vacations of roads, streets, and alleys should be discouraged and only allowed in strict compliance with RCW 35.79.035 (Streets and Alleys) or RCW 36.87.130 (County Roads).
- L. **Fishing easements.** In consultation with the Washington Department of Fish and Wildlife, Chelan County should review fishing easements on the Wenatchee River, Entiat River, and other shoreline waterbodies.<sup>5</sup> Chelan County should work in partnership with the Washington Department of Fish and Wildlife, Chelan County Public Utility District, Cities, land trusts, and others to improve public access to the fishing easements. Actions may include improving access on unused sites, consolidating access points for maintenance purposes, or land surplus, exchanges or purchases, etc.

#### **4.4.2 Regulations**

See local government-specific Chapters 9.4.2 through 14.4.2.

### **4.5 Vegetation Conservation and Shoreline Buffers**

#### **4.5.1 Policies**

- A. **Conserve native vegetation.** Where new developments, uses and/or redevelopments are proposed, native shoreline vegetation should be

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<sup>5</sup> Wenatchee Watershed Vision Report, page 49: In the 1960 and 70's, Chelan County Public Utilities District purchased a number of fishing access easements along the Wenatchee River as part of its mitigation efforts for the Rocky Reach Dam on the Columbia River. The easements, now owned by Washington Department of Fish and Wildlife, were once mapped (and some marked) in the 1970's, but many have since fallen out of public knowledge.

conserved to maintain shoreline ecological functions and processes. Vegetation conservation and restoration should be used to mitigate the direct, indirect and cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:

1. Providing shade necessary to maintain water temperatures required by salmonids and other organisms that require cool water for all or a portion of their life cycles.
2. Regulating microclimate in riparian and nearshore areas.
3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase structural diversity for salmonids and other species.
8. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover. (list based on WAC 173-26-221(5)(b))

- B. **Native plant list.** A County-wide native plant list should be developed that identifies native species most suitable for shoreline restoration and enhancement projects. At a minimum, all plants utilized in shoreline buffers should be native as indicated by the Washington Native Plant Society.
- C. **Noxious and invasive weeds.** Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality. Use of non-toxic or natural controls is preferred. (WAC 173-26-221(5)(c)(i))

**4.5.2 Regulations (based on extensive “Principles” (WAC 173-26-221(5)(b)) and “Standards” (WAC 173-26-221(5)(c)))**

- A. **Conserve vegetation.** Shoreline developments shall address conservation and maintenance of vegetation through compliance with this Section, the critical area standards in Appendix B, and any other regulations specific to vegetation management contained in other chapters of this SMP.
- B. **Minimize clearing.** Vegetation clearing within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development.
- C. **Mitigation required.** Where impacts to shoreline or critical area buffers are permitted, and after mitigation sequencing has been applied as outlined in Section 4.2.2(A), new developments or site alterations shall be required to develop and implement a mitigation plan. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant plan requirements of the appropriate responsible government in Appendix B, including a five-year monitoring plan and scaled drawings of existing and proposed conditions. Mitigation plans shall describe actions that will ensure no net loss of ecological functions to the maximum extent practicable at the site scale. Mitigation measures shall be maintained over the life of the use and/or development.
- D. **Filling, clearing and grading.** Filling, clearing and grading in vegetated shoreline areas within shoreline jurisdiction shall be in conformance with the provisions of Section 5.9, Fill; in addition to Section 4.2, Ecological Protection and Critical Areas; Appendix B, Critical Areas Regulations, and any other applicable provisions of this SMP.
- E. **Tree Pruning and Removal.** Selective pruning of trees for safety or view protection is allowed if consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; Appendix B, Critical Areas Regulations; and F below. Where trees pose a significant safety hazard as indicated in a written report by a certified arborist or other qualified professional, they may be removed from shoreline and critical area buffers if the hazard cannot be removed by topping or other technique that maintains some habitat function. All other tree removal in shoreline jurisdiction shall be minimized through site design, and mitigated.
- F. **View Corridors.** The development or maintenance of view corridors can provide opportunities for visual access to waterbodies associated with waterfront lots. One view corridor, limited to 25 percent of the width of the lot, or 25 feet, whichever distance is less, may be permitted per lot,



when consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas; Appendix B, Critical Areas Regulations; and this Section. A mitigation plan as required by C above must be submitted for review and approval.

1. In addition to the submittal of a complete mitigation plan, an applicant must submit the following materials:
  - a. A graphic and/or site photos for the entire shoreline frontage which demonstrates that the existing or proposed development does or will not have a view corridor of the waterbody, taking into account site topography and the location of existing shoreline vegetation on the parcel.
  - b. Demonstration that where the applicant already has an accessible shoreline physical access corridor per the Vegetation Conservation sections of each responsible local government, the view corridor will include the existing shoreline physical access corridor to minimize alteration of the shoreline buffer.
2. Applications for view corridors must also be consistent with the following standards:
  - a. Native vegetation removal shall be prohibited, unless the entire shoreline buffer consists of native vegetation. Under those circumstances, native vegetation removal may be allowed provided that the view corridor is located to minimize removal of native trees, shrubs, and groundcovers, in that order.
  - b. Pruning of native trees shall be conducted by or under the supervision of a qualified professional such that the tree's long-term health shall not be compromised. Native shrubs shall not be pruned to a height less than 6 feet. No tree topping shall occur. Pruning of vegetation waterward of the OHWM is prohibited.
  - c. Non-native vegetation within a view corridor may be removed when the mitigation plan can demonstrate a net gain in site functions, and where any impacts are mitigated.

- d. Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.
  - e. A view corridor may be issued once for a property. No additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from regrowth. Limitations and guidelines for this maintenance shall be established in the mitigation plan.
- G. **Unauthorized vegetation removal.** Vegetation removal conducted without the appropriate review and approvals requires the submittal and approval of a restoration plan prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations. The mitigation plan must utilize only native vegetation, and should be designed to compensate for temporal loss of function and address the specific functions adversely impacted by the unauthorized vegetation removal.
- H. **Non-native vegetation.** With the exception of hand removal or spot-spraying of invasive or noxious weeds, the determination of whether non-native vegetation removal may be allowed in a shoreline or critical area buffer must be evaluated in conformance with Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations. Such removal of noxious weeds and/or invasive species shall be incorporated in mitigation plans, as necessary, to prevent erosion and facilitate establishment of a stable community of native plants. Non-native vegetation removal outside of shoreline or critical area buffers does not require mitigation, except as noted under Subsection E above.
- I. **Existing uses may continue.** Vegetation conservation standards shall not apply retroactively to existing uses and developments. Existing structures, uses and developments, including residential appurtenances, may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP.
- J. **New structures or developments prohibited.** New structures or developments, including, but not limited to, pools, decks, patios, residence additions, sheds, fences, or other residential appurtenances, are not permitted in shoreline buffers except as specifically allowed in this section, each local government's Vegetation Conservation and Shoreline

Buffer sections, and each local government's Nonconforming Uses and Development Standards sections of this Master Program.

- K. **Water-dependent uses.** Consistent with the use allowances for each environment designation, water-dependent uses and activities may be located at the water's edge, or as prescribed by conditions added to a permit. Accessory uses, developments and activities should be located outside the standard or reduced shoreline buffer unless a location in the buffer is necessary for operation of the water-dependent use or activity (e.g., a road to a boat launch) or no other location is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer). All other accessory uses, developments and activities located in a shoreline buffer must obtain a Shoreline Variance.
  
- L. **Public facilities and other water-oriented uses.** Consistent with the use allowances for each environment designation, other essential public facilities, public access facilities, and their accessory uses and developments may be located in the shoreline buffer if the use or activity cannot be accommodated or accomplished outside of the standard or reduced shoreline buffer. These uses and modifications must be designed and located to minimize intrusion into the buffer and should also be consistent with Section 4.2, Ecological Protection and Critical Areas and Section 4.4, Public Access.
  
- M. **Passive allowed activities.** Education, scientific research, and passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling, are allowed within shoreline jurisdiction and within established shoreline and critical area buffers provided the activity does not alter the buffers by introducing impervious surfaces; removing native vegetation; or changing existing topography, water conditions, or water sources.
  
- N. **Site investigation allowed.** Site investigative work necessary for land use application submittals such as surveys, soil logs, drainage tests and other related activities, may occur within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. In every case, buffer impacts should be avoided and/or minimized and disturbed areas shall be immediately restored.
  
- O. **Siting of roads.** Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction. Crossings, where necessary, shall cross shoreline and critical area buffers

at as near right angles as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands. If no alternative exists to placing a roadway in shoreline jurisdiction, a mitigation plan prepared by a qualified professional must be submitted, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas and appropriate requirements of Appendix B, Critical Areas Regulations.

- P. **Utilities.** Where no other practical alternative exists to the excavation for and placement of wells, tunnels, utilities, or on-site septic systems in a shoreline and critical area buffer, these uses may be permitted if also allowed under Section 5.20, Utilities. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B.
- Q. **Trails.** Trails and associated facilities may be permitted in shoreline buffers, but should conform to design guidelines found in Public Access sections of this SMP. A mitigation plan must be prepared by a qualified professional, and must be consistent with the provisions of Section 4.2, Ecological Protection and Critical Areas, and appropriate requirements of Appendix B, Critical Areas Regulations.
- R. **Shoreline Buffer Width Reduction.**
1. **Roads and Railways.** Where a legally established road or railway transects a shoreline or stream buffer, the Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved road or railway if the part of the buffer on the upland side of the road or railway sought to be reduced:
    - a. does not provide additional protection of the shoreline waterbody or stream; and
    - b. provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream.
  2. **Other Developments.** Where an existing and legally established development occupying more than 50 percent of the width of the lot transects a shoreline or stream buffer, the Shoreline Administrator may approve a modification of the minimum

required buffer width to the upland edge of the waterward legal lot if the part of the buffer on the upland legal lot sought to be reduced:

- a. does not provide additional protection of the shoreline waterbody or stream; and
  - b. provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody or stream.
- S. **Conflicts with flood hazard reduction measures.** In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing licensed or certified flood hazard reduction measures, the requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by certifying or licensing agencies.

## 4.6 Water Quality, Stormwater and Nonpoint Pollution

### 4.6.1 Policies

- A. **Do not degrade waters.** The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.
- B. **Assess and mitigate stormwater impacts.** New developments or expansions or retrofits of existing developments should assess the effects of additional stormwater runoff volumes and velocities, and mitigate potential adverse affects on shorelines through design and implementation of appropriate stormwater management facilities.
- C. **Low impact development.** Use of low impact development (LID) techniques for minimization of impervious surfaces and management of stormwater runoff is encouraged.
- D. **Minimize need for chemical applications.** Shoreline use and development, including invasive or noxious weed control, should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground

water and/or soils and adverse effects on shoreline ecological functions and values.

- E. **Provide and maintain buffers.** Appropriate buffers along all wetlands, streams, and lakes should be provided and maintained for new development in a manner that avoids the need for chemical treatment for vegetation management and be consistent with critical areas ordinances and best management practices.
- F. **Existing development.** For existing development, implementation of management plans that minimize or avoid the need for chemical treatments of vegetation in shoreline buffers is encouraged. When lands owned by a responsible local government are leased to private parties, a vegetation management plan should be negotiated during lease renewal.

#### **4.6.2 Regulations**

- A. **Do not degrade waters.** Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws. (WAC 173-26-221(6)(b)(i))
- B. **Requirements for new development.** New development shall provide stormwater management facilities designed, constructed, and maintained in accordance with the current Stormwater Management Manual for Eastern Washington in effect at the time, including the use of best management practices. Deviations from these standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan. Additionally, new development shall implement low impact development techniques where feasible and necessary to fully implement the core elements of the Stormwater Management Manual for Eastern Washington. (WAC 173-26-221(6)(b)(ii))
- C. **Maintain storm drainage facilities.** Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.
- D. **Use BMPs.** Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through an approved temporary erosion and sediment

control (TESC) plan, identified in the Stormwater Management Manual for Eastern Washington, as amended, or administrative conditions, in accordance with the current federal, state, and/or local stormwater management standards in effect at the time.

- E. **Sewage management.** To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards, in addition to requirements outlined below. (WAC 173-26-221(6)(b)(ii))
1. On-site wastewater treatment systems serving allowed uses in conformance with this Master Program shall be subject to regulations administered by the Chelan-Douglas Health District.
  2. Large On-site Sewage Systems (LOSS) shall be subject to regulations administered by the Washington State Department of Ecology or Department of Health as required by rule adopted under RCW 70.118B.020. Such sewage treatment systems shall be located to prevent or minimize entry of nutrients, including phosphorus and nitrogen, or other pollutants, into ground and surface water within shoreline jurisdiction.
  3. All individual and community on-site wastewater treatment systems, also called sewage treatment systems, including septic tanks and drainfields or alternative systems approved and inspected by the Chelan-Douglas Health District, the Washington Department of Ecology, or Washington Department of Health, shall be located landward of designated shoreline buffers.
  4. The Chelan-Douglas Health District requires a standard horizontal separation of on-site sewage treatment systems from surface waters of 100 feet from the OHWM. In instances where shoreline buffers are less than 100 feet in width, an approval from the Chelan-Douglas Health District is required to locate sewage system components closer than 100 feet to the OHWM. Buffer reductions shall be the minimum necessary and shall be based on feasibility, lot size, or lot configuration. Where residential structures are permitted within 100 feet of the OHWM, tightlines from structures or septic tanks may be located within 100 feet from the OHWM.
  5. Whenever feasible while meeting Chelan-Douglas Health District or Washington Department of Health standards, all components

of on-site sewage treatment systems, including subsurface soil absorption systems, shall be located landward of the residential structures they serve.

- F. **Materials requirements.** All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in shoreline waterbodies. (WAC 173-26-221(6)(b)(i-ii))



## 5 SHORELINE MODIFICATIONS AND USES

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

Each section includes policies and regulations. Policies are statements of principles that guide and determine present and future decisions. Regulations are rules that govern developments, uses, or activities. The Use Matrix and Development Standards sections found in Subsection 3 of Chapters 9 through 14 are considered part of the regulations.

### 5.1 General Upland Shoreline Modification and Use Regulations

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

#### 5.1.1 Policies

- A. **Designs Avoid Sensitive Areas.** Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values. (Proposed based on principles described in Chapter 4)
- B. **Location of Nonwater-Oriented Accessory Uses.** Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and materials storage should be located landward of shoreline, riparian and/or wetland buffers and landward of water-oriented developments and/or other approved uses. (based on use preferences in RCW 90.58.020, WAC 173-26-201(2)(d), WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b))
- C. **Minimize Impacts on Shoreline and Upland Uses.** Development should be located, designed, and managed to minimize impacts on shoreline or upland uses through bulk and scale restrictions, setbacks, buffers, light

shielding, noise attenuation, and other measures. (WAC 173-26-211(4)(a)(iv))

- D. **Vistas and Viewpoints.** Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs. (1975 SMP Policy 7c)

### **5.1.2 Regulations**

- A. **Design features for compatibility.** Shoreline use and development activities shall be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors. Shoreline applicants shall demonstrate efforts to minimize potential impacts to the extent feasible, including: (WAC 173-26-211(4)(a)(iv) and 221(4)(d)(iv))
1. Buildings shall incorporate architectural features that reduce scale such as setbacks, pitched roofs, offsets, angled facets, and recesses.
  2. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.
  3. Building mechanical equipment shall be incorporated into building architectural features, such as pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be incorporated into architectural features, a visual screen shall be provided consistent with building exterior materials that obstructs views of such equipment.
  4. Outdoor storage shall be screened from public view through techniques such as landscaping, berming, fencing and/or other equivalent measures.
  5. Property screening in the form of fences or berms shall not block visual access to the shoreline, and shall be subject to Section 5.1.2.D below.
- B. **Preference for water-oriented facility location.** Shoreline developments shall locate the water-oriented portions of their developments along the shoreline and place all other facilities landward or outside shoreline jurisdiction. (based on use preferences in RCW 90.58.020, WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))
- C. **Minimize changes to topography.** To the extent feasible, design of structures shall conform to natural contours and minimize disturbance to

soils and native vegetation. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the extent feasible while meeting applicable government standards. (based on 1975 SMP Policy 15d as well as principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)

- D. **Soil disturbance.** All disturbed areas shall be restored and protected from erosion using vegetation and other means.
  
- E. **View corridors.**
  - 1. Where commercial, industrial, mixed use, multi-family and/or multi-lot developments are proposed, primary structures shall provide for view corridors between buildings through the use of building separation, setbacks, upper story setbacks, pitched roofs, and other mitigation. The location of sensitive view corridors may be determined through review of shoreline public access plans (Appendix G), location of Federal- or State-designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies. Per WAC 173-27-180, applicants shall provide a depiction of the impacts to views from existing residential uses and public areas. (WAC 173-26-221(4)(d)(iv))
  
  - 2. In order to allow for public access pursuant to Sections 4.4 and 9.4 through 14.4, and/or to allow for buffer accommodations pursuant to Sections 4.5 and 9.5 through 14.5, building height may be increased when consistent with the criteria in 2a to 2b.
    - a. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.

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- b. Applicants proposing building or structure heights above 35 feet, but consistent with underlying zoning allowances, may be approved as part of a Substantial Development Permit if the following criteria are affirmatively met:
    - (1) The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area.
    - (2) The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.
  - c. Building heights above 35 feet, but inconsistent with underlying zoning allowances, require authorization via a Shoreline Conditional Use Permit pursuant to Section 7.7 of this Shoreline Master Program.
- F. **Lighting.** Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties or public areas; prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening. (WAC 173-26-211(4)(a)(iv); most Cities and the County address lighting and the need for shielding and avoiding spillover; for example Chelan County Code 11.88.080 Light and glare))
- G. **Sign regulations.**
- 1. Sign Size, Location, and Lighting Standards:
    - a. The maximum area of individual sign faces shall be consistent with standards in Chapters 9 through 14. Signs shall also comply with standards of subsection 5.1.2.F.
    - b. Signs required by law shall not be subject to limitations with respect to the number, location, and/or size, provided

that they are the minimum necessary to achieve the intended purpose. Signs required by law include, but are not limited to, official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.

- c. Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character are prohibited in shoreline jurisdiction. Pennants, banners and other devices of seasonal, holiday, or special event character may be utilized on a temporary basis based on the standards in Appendix H.
  - d. Freestanding signs authorized by this SMP are subject to the shoreline and critical area buffers and vegetation conservation standards in Section 4.5 and Appendix B. Building mounted signs are subject to shoreline buffers and other setbacks applicable to buildings. Height of wall signs shall be measured in accordance with applicable standards in Appendix H.
2. Views: Signs shall not significantly obstruct visual access to the water or scenic vistas nor impair driver vision. Signs shall be subject to the review of Section 5.1.2.E. (based on 1975 SMP Sections 18.1 and 18.2)
  3. Natural Features: Signs shall not be posted or painted on natural features such as trees and rocks. (based on 1975 SMP Sections 18.1 and 18.2)
  4. Moved Signs: Signs that are moved, replaced, or substantially altered shall conform with SMP requirements and responsible local government regulations. (based on 1975 SMP Sections 18.1 and 18.2) For the purposes of this section, “substantial alterations” includes modifying structural elements of the sign.

## **5.2 General Aquatic Shoreline Modification and Use Regulations**

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

### 5.2.1 Policies

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

### 5.2.2 Regulations

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

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

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

function, consultation with Washington Department of Fish and Wildlife and/or the U.S. Army Corps of Engineers should occur before removal. Disposal should occur in an approved upland disposal location, landward of the OHWM and the channel migration zone. See Sections 5.8, Dredging and Dredge Material Disposal and 5.9, Fill for additional policies and regulations regarding dredging, fill and disposal.

- M. **Notification when fish harmed.** If at any time, as a result of in-water work, fish are observed to be in distress or killed, immediate notification shall be made to appropriate state or federal agency(ies), including the Washington Department of Fish and Wildlife, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- N. **Notification of water quality problems.** If at any time, as a result of in-water work, water quality problems develop, immediate notification shall be made to the appropriate state or federal agency(ies), including Ecology, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- O. **Retain natural features.** Natural in-water features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion, higher flood stages, or a hazard to navigation or human safety.
- P. **Floatation materials.** Floatation material (floats, buoys) must be encapsulated within a shell that prevents breakup or loss of the floatation material into the water, and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated floatation material must be replaced.
- Q. **Anchors.** Floats, rafts and mooring buoys must use helical screw anchors or other embedded anchors and midline floats or other technologies to prevent anchors or lines from dragging or scouring. If the substrate is too hard, a 5-gallon bucket filled with cured concrete may be used.
- R. **Mitigation.** All aquatic shoreline modifications and uses are subject to the mitigation sequencing requirements in Section 4.2, Ecological Protection and Critical Areas, with appropriate mitigation required for any unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of Appendix B, Critical Areas Regulations.



## 5.3 Agriculture

### 5.3.1 Policies

- A. **Maintain Agriculturally Productive Lands.** Lands well suited for agriculture may be maintained in agricultural production. (1975 SMP Policy 1a)
- B. **Encourage Vegetative Buffer.** The maintenance of a buffer of permanent vegetation along the shoreline in agricultural areas should be encouraged in order to retard surface runoff, reduce siltation, and provide sanctuary for fish and other wildlife. (1975 SMP Policy 1b)
- C. **Protect Airsheds.** Natural airsheds, made up of ravines, swales, tributaries, and other topographic features which direct the flow of cold air down to major streams, should be protected. Obstructions which would create frost pockets should be avoided. Adverse effects of highways, buildings, dikes, landfills, and dense plantings which may obstruct airflow and threaten existing orchards should be minimized. (1975 SMP Policy 1f)
- D. **Avoid Water Pollution.** Agricultural activities should be conducted and buildings designed to avoid surface or groundwater pollution. (1975 SMP Policy 1c)
- E. **Avoid Structures in Floodplains.** Agricultural structures should be located outside of the floodway. Agricultural structures should be discouraged in the 100-year floodplain unless no other suitable location is available and adequate protective measures are implemented. (1975 SMP Policy 1d)
- F. **Manage Water Resources.** Water resources should be managed in accordance with federal and state laws and adopted County watershed plans. (1975 SMP Policies 1g to 1j.)

### 5.3.2 Regulations

- A. **Existing Agriculture.** The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP.
- B. **Applicability.** Shoreline Master Program provisions shall apply in the following cases:
  - 1. new agricultural activities on land not meeting the definition of agricultural land;

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2. expansion of agricultural activities on non-agricultural lands;
  3. conversion of agricultural lands to other uses;
  4. other development on agricultural land that does not meet the definition of agricultural activities; and
  5. agricultural development and uses not specifically exempted by the Act.
- C. **No Net Loss of Ecological Function.** Agricultural uses and development in support of agricultural uses shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.
- D. **Development Standards.**
1. A Substantial Development Permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi) or development that does not meet the definition of agricultural activities.
  2. Feedlots shall comply with the following standards.
    - a. Shall be located outside of shoreline buffers, vegetation conservation areas, and 100-year floodplains.
    - b. Shall have a minimum of four feet between the ground surface and the upper surface of the water table.
    - c. Shall be conditioned to meet best management practices promulgated by federal or state agencies. (Similar to 1975 SMP Section 12.1.3)
  3. **Agricultural-Commercial Uses.** Agricultural-commercial uses are allowed where specified in environment designations indicated in Chapters 9 to 14 and when consistent with Commercial use standards in Section 5.7.
  4. **Non-agricultural activities on agricultural lands.** New non-agricultural activities proposed on agricultural lands shall be consistent with other applicable shoreline use standards, for example Commercial or Industrial.

## 5.4 Aquaculture

Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Aquaculture in shoreline areas shall be subject to the policies and regulations of this Section.

### 5.4.1 Policies

- A. **Water-dependent and preferred use.** Aquaculture is a water-dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is a preferred use of the shoreline (WAC 173-26-241(3)(b)).
- B. **Recognize limited availability of suitable locations.** Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection and navigation. The technology associated with some forms of aquaculture is still experimental and in formative stages. Therefore, some latitude should be given when implementing the regulations of this section in the development of this use.
- C. **Preference for lower-impact methods.** Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts, and lesser impacts to native plant and animal species. In general, projects that require either no structures or submerged structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.
- D. **Protect ecological functions.** Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions and processes. Aquaculture should not be permitted where it would result in a net loss of shoreline ecological functions, adversely affect the quality or extent of habitat for native species, adversely impact other habitat conservation areas, or interfere with navigation or other water-dependent uses.
- E. **Prevent cumulative adverse effects.** Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations

through potential contribution of antibiotic resistant bacteria, escapement of non-native species, or other adverse effects on ESA-listed species should not be permitted.

- F. **Consult with stakeholders.** The local jurisdiction should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate Federal, State, Tribal and local agencies and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.
- G. **Coordinate with Tribes.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process. Direct coordination between the applicant and the tribe should be encouraged.
- H. **Consider beneficial and adverse impacts.** Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.
- I. **Restrictions on experimental aquaculture.** Experimental aquaculture projects in waterbodies should be limited in scale and should be approved for a limited period of time, as specified by the regulatory agency. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the State of Washington.
- J. **Protect existing aquaculture.** Legally established aquaculture enterprises, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Uses or developments that have a high probability of damaging or destroying an existing aquaculture operation are not consistent with these policies.

#### **5.4.2 Regulations**

- A. **Substrate modification.** Aquaculture that involves substantial substrate modification or sedimentation through dredging, trenching, digging, or other similar mechanisms, shall not be permitted in areas where the proposal would adversely impact important fish or wildlife habitats. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

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

and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

- J. **Insurance.** The local government shall reserve the right to require aquaculture operations to carry liability insurance in an amount commensurate with the risk of injury or damage to any person or property as a result of the project. Insurance requirements shall not be required to duplicate requirements of other agencies.
- K. **Use of public facilities.** Where aquaculture activities are authorized to use public facilities, such as boat launches or docks, the local government shall reserve the right to require the applicant to pay a portion of the cost of maintenance and any required improvements commensurate with the use of such facilities.
- L. **Over-water structures.** For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than 3 feet in height, as measured from the surface of the raft or dock; provided that, in locations where the visual impact of the proposed aquaculture structures will be minimal, the responsible local government may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials that are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.
- M. **Product processing.** No processing of any aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be subject to the policies and regulations of Section 5.7, Commercial Development and/or Section 5.11, Industry, when located within shoreline jurisdiction, in addition to the policies and regulations in this section.
- N. **Waste disposal.** Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including, but not limited to, the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

- O. **Construction, maintenance and bonding.** Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and/or equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the responsible local government shall require the posting of a bond commensurate with the cost of removal or repair. The local jurisdiction may abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in thirty (30) days and may impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

## 5.5 Boating Facilities (Marinas / Community Piers / Boat Launches)

Boating facilities, including marinas, community piers, and public or community boat launches, shall be subject to the policies and regulations of this Section. Buoys associated with these facilities are also subject to these policies and regulations, as well as the general location and design standards found in Section 5.14.2.E. Policies and regulations for moorage facilities serving four or fewer single-family residences are located in Section 5.14, Private Moorage Facilities.

All boating facilities that extend onto State-owned aquatic lands must also comply with Washington Department of Natural Resources<sup>6</sup> standards and regulations.

### 5.5.1 Policies

- A. **Recognize that boating facilities are water-dependent uses.** Boating facilities, including marinas and public boat launches, are water-dependent uses. When facilitating public access or providing an opportunity for substantial numbers of people to enjoy the shoreline, these uses should be given priority for shoreline location. Shorelines particularly suitable for marinas and public boat launches are limited and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.
- B. **Plan and coordinate marinas regionally.** Regional needs for marina and boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, collocated with other compatible water-dependent uses.

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<sup>6</sup> The Washington Department of Natural Resources is currently developing new standards for uses and modifications on State-owned aquatic lands.

Review of such facilities should be coordinated with recreation providers, including other local governments, adjacent counties, the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources, to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes. (consistent with principles in WAC 173-26-231(2)(b, d))

- C. **Minimize modifications.** Boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. (consistent with principles in WAC 173-26-231(2)(b, d))
- D. **Balance public access and ecological functions.** New marinas should provide physical and/or visual public shoreline access, particularly where water-enjoyment uses are associated with the marina, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use. (WAC 173-26-241(3)(c)(iv))
- E. **Limitations on accessory uses.** Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Nonwater-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.
- F. **Protect other water-dependent uses.** Boating facilities should be located, designed and operated so that other appropriate water-dependent uses are not adversely affected.
- G. **Minimize impacts to adjacent uses and users.** Boating facilities should be located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.
- H. **Site facilities appropriately.** New boating facilities should be located only at sites where suitable environmental conditions, shoreline configuration, access, and neighboring uses are present. (WAC 173-26-241(3)(c)(i))
- I. **No net loss of ecological functions.** Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and should, where feasible, enhance degraded and/or scarce shoreline features. (WAC 173-26-241(3)(c)(vi))



- J. **Consider navigation and other recreation opportunities.** Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.

## 5.5.2 Regulations

- A. **Location Standards.** (based on WAC 173-26-241(3)(c)(i, ii, iv))
1. Boating facilities shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this SMP:
    - a. Wetlands with emergent vegetation (marsh type areas), or
    - b. Spawning and holding areas for anadromous fish.
  2. New boating facilities shall not be permitted in areas of active channel migration, or areas where dredging will be required, where a flood hazard will be created, or where impacts to shoreline ecological functions and processes cannot be mitigated.
  3. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods or destructive storms.
  4. Boating facilities shall not be located within 200 feet of beaches commonly used for swimming, valuable fishing areas, aquaculture facilities, or commercial navigation areas unless no alternative location exists and mitigation is provided to minimize impacts to such areas and protect the public health, safety and welfare.
  5. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
  6. Long-term boat storage located landward of the OHWM is regulated as a nonwater-oriented commercial use under Section 5.7, Commercial Development of this SMP, unless it is equipped with a boat launch (either launch ramp, crane, hoist or similar

device). If the storage use is equipped with a boat launch, it is regulated as a water-related commercial use.

**B. Facility Design.**

1. Consistent with requirements for mitigation sequencing in Section 4.2, Ecological Protection and Critical Areas and provisions in Section 5.2, General Aquatic Shoreline Modification and Use Regulations of this SMP, all boating facilities shall be designed and located to avoid and minimize impacts. All unavoidable impacts must be mitigated.
2. All boating facilities, including marinas, boat launches, and community piers, shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Specific sizing of all boating facility components shall be based on the results of the analyses conducted under Subsection F below, with the following limitations:
  3. Community piers shall be no wider than 8 feet and community piers and marinas shall be no longer than 200 feet measured perpendicularly from the OHWM.
  4. Community piers and marinas may be as long as 250 feet without a Shoreline Variance if the additional length is needed to reach 12 feet of moorage depth as measured from the OHWM. The extra length will not be allowed if the extension would interfere with navigation or other public uses of the water.
  5. Community piers shall be designed to accommodate no more than 0.75 boats per waterfront residential unit, or residential unit that shares a legal interest in a community waterfront parcel, served by the pier. One additional boat moorage location for guests may be included in the design for every ten waterfront residential units served, with a minimum of one guest location for developments under ten waterfront units and rounding to the nearest whole number for other fractions of ten waterfront units.
6. Preferred launch ramp designs, in order of priority, are:
  - a. Open grid designs with minimum coverage of substrate.

- b. Seasonal ramps that can be removed and stored upland.
- c. Structures with segmented pads and flexible connections that leave space for natural substrate and can adapt to changes in substrate profile.

**C. Site Design and Operation.**

- 1. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed nor made dangerous. (WAC 173-26-241(3)(c)(i, iv))
- 2. Marinas and boat launches shall provide physical and/or visual public access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal. Features for access could include, but are not limited to, walk-on access, fishing platforms, and underwater diving and viewing platforms.
- 3. Public or community access areas shall provide space and facilities for physical and visual access to waterbodies, including feasible types of shore recreation.
- 4. Covered moorage, including watercraft lift canopies, is prohibited. (consistent with WAC 173-26-231(2)(b) and WAC 173-26-241(3)(c)(vi))
- 5. Accessory uses at marinas or boat launches shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

**D. Parking and Vehicle Access. (WAC 173-26-241(3)(c)(i))**

- 1. Parking facilities shall meet zoning standards; provided that, at a minimum, one (1) vehicle space shall be maintained for every four (4) moorage spaces and for every 400 square feet of interior floor space devoted to accessory retail sales or service use. Bicycle parking shall be provided commensurate with the anticipated demand.

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2. The traffic generated by such a facility must be accommodated by the streets serving the proposed facility in accordance with responsible local government adopted levels of service.
3. Parking that does not require a shoreline location in order to carry out its functions shall:
  - a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists;
  - b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas;
  - c. Observe critical area and shoreline buffers; and
  - d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
4. At public boat launches, trailer parking spaces at least 10 feet by 40 feet shall be provided commensurate with projected demand.

### E. **Waste Disposal.** (WAC 173-26-241(3)(c)(ii, vi))

1. Discharge of solid waste or sewage into a waterbody is prohibited. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users. Marinas shall provide adequate restroom and sewage disposal facilities (pump out, holding, and/or treatment facilities) in compliance with applicable health regulations.
2. Disposal or discarding of fish-cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited.
3. Marina operators shall post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them.
4. Fail-safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or substantial alteration of existing marinas. Compliance with Federal or State law may fulfill this

requirement. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable Federal and State water quality laws as well as health, safety and engineering requirements. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

**F. Submittal Requirements.**

1. Applicants shall provide an assessment of market demand for new or expanded boating facilities, including, but not limited to, the following: (consistent with WAC 173-26-231(2)(b))
  - a. The total amount of moorage proposed (except for boat launch proposals);
  - b. The proposed supply, as compared to the existing supply, within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;
  - c. The expected service population and boat ownership characteristics of the population; and
  - d. Existing approved facilities, or pending applications, within the service area of the proposed new facility.
2. Applicants for new or expanded boating facilities shall provide habitat surveys, critical area studies, and mitigation plans as required by the responsible local government consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations, as applicable. The mitigation plan shall discuss how the proposed project avoids and minimizes impacts consistent with the facility's sizing needs, which are to be based on the results of any habitat survey/critical area study and the market demand analysis prepared under F.1 above. A slope bathymetry map may be required when deemed beneficial by the Shoreline Administrator for the review of the project proposal.
3. Applicants for new or expanded boating facilities shall provide an assessment of existing water-dependent uses in the vicinity, including, but not limited to, navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, and document potential impacts and mitigating measures. The responsible local government will assist the applicant in identification of area water-dependent uses. Impacts on these resources shall be considered in review of

proposals and specific conditions to avoid or minimize impacts may be imposed.

4. New boat launches shall be approved only if they provide public access to public waters that are not adequately served by existing access facilities, or if use of existing facilities is documented to exceed the designed capacity. Prior to providing boat launches at a new location, documentation shall be provided demonstrating that expansion of existing launch facilities would not be adequate to meet demand. (consistent with WAC 173-26-231(2)(b))

## 5.6 Breakwaters, Jetties, Groins and Weirs

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

### 5.6.1 Policies

- A. **Allowed circumstances.** Breakwaters, jetties, groins, and weirs located waterward of the OHWM shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. (WAC 173-26-231(3)(d))
- B. **Regional benefit and no net loss of ecological functions.** Breakwaters, jetties, groins and weirs should be permitted only for water-dependent uses when the benefits to the region outweigh short-term resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes. (WAC 173-26-231(2)(b, d))
- C. **Use less-impacting alternatives.** Alternative structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible. (consistent with WAC 173-26-231(2)(b, d))
- D. **Shoreline Conditional Use Permit required.** Breakwaters, jetties, groins, weirs, and similar structures should require a Shoreline Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. (WAC 173-26-231(3)(d))
- E. **Protect critical areas.** Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation

according to the sequence defined in Section 4.2.2(A). (WAC 173-26-231(3)(d))

## 5.6.2 Regulations

- A. **No net loss of ecological functions.** New, expanded or replacement structures shall only be permitted if it can be demonstrated that the proposed measures will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. (WAC 173-26-231(2)(b, d))
- B. **Conditional Use Permit required.** Breakwaters, jetties, groins, weirs, and similar structures shall require a Conditional Use Permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. (WAC 173-26-231(3)(d))
- C. **Limitations on groins.** Groins are prohibited except as a component of a professionally designed community or public beach management program that encompasses an entire reach for which alternatives are infeasible, or where installed to protect or restore shoreline ecological functions or processes. (consistent with WAC 173-26-231(2)(b, d, e))
- D. **Limit size of structures.** The size of breakwaters, jetties, groins and weirs shall be limited to the minimum necessary to provide protection for the structure or use it is intended to protect. (WAC 173-26-231(2)(b))
- E. **Use less-impacting alternatives.** Jetties and breakwaters are prohibited except as an integral component of a professionally designed marina. Where permitted, floating, portable or submerged breakwater structures, or smaller discontinuous structures, are preferred where physical conditions make such alternatives with less impact feasible.
- F. **Professional design.** Proposed designs for new or expanded structures shall be designed and certified by qualified professionals, including an engineer and a biologist.

## 5.7 Commercial Development

### 5.7.1 Policies

- A. **Encourage water-oriented uses.** Water-oriented commercial developments which provide an opportunity for substantial numbers of people to enjoy the amenities of the shorelines should be encouraged to locate near the water. Nonwater-oriented commercial development

should be encouraged to locate landward or outside shoreline jurisdiction. (1975 SMP policy 6a)

- B. **Commercial use preferences.** Preference should be given for water-dependent commercial uses above water-related uses. Water-related uses should have priority above water-enjoyment uses. All water-oriented commercial uses have preference over nonwater-oriented commercial uses. (WAC 173-26-241(3)(d))
- C. **Location in existing commercial areas.** New commercial development should be encouraged to locate in those areas where current commercial uses exist. (1975 SMP policy 6b)
- D. **Parking.** Parking facilities should be located landward or outside shoreline jurisdiction unless supporting an authorized use. ()
- E. **Views.** New commercial development should not significantly reduce scenic vistas and views. (1975 SMP policy 6d)

## **5.7.2 Regulations**

- A. **Water-oriented uses allowed.** Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP. Water-dependent commercial uses shall be given preference over water-related and water-enjoyment uses. The applicant shall demonstrate to the satisfaction of the responsible local government that proposed uses meet the definitions of water-dependent, water-related or water-enjoyment (water-oriented use). (WAC 173-26-241(3)(d))
- B. **Residential uses as part of mixed use development.** Nonwater-oriented uses, including but not limited to residential uses, may be located with water-oriented commercial uses provided:
  - 1. The mixed-use project includes one or more water-dependent uses.
  - 2. Water-dependent commercial uses as well as other water-oriented commercial uses have preferential locations along the shoreline.
  - 3. The underlying zoning district permits residential uses together with commercial uses.
  - 4. Public access is provided for significant number of persons in accordance with Section 4.4 and Chapters 9.4.4 to 14.4.4, and/or ecological restoration is provided as a public benefit.



5. Residential uses meet requirements of Section 5.16 of this SMP.
- C. **Nonwater-oriented commercial uses limited.** In areas designated for commercial use, nonwater-oriented commercial uses are allowed if the site is physically separated from the shoreline by another property or public right of way. On properties fronting the shoreline, new nonwater-oriented commercial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration and meets one of the following conditions: (WAC 173-26-241(3)(d))
1. The use is part of a mixed-use project that includes water-dependent uses; or
  2. Navigability is severely limited at the proposed site.
- D. **Overwater uses.** Nonwater-dependent commercial uses shall not be located over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses. (WAC 173-26-241(3)(d))
- E. **Accessory uses to water-oriented commercial activities.** Accessory commercial development that does not require a shoreline location shall be located landward of the water-oriented portions of the development and comply with shoreline buffers for nonwater-oriented uses. Accessory uses may be allowed in existing structures or where necessary in support of water-oriented uses. Accessory development includes, but is not limited to, parking, storage and service areas, and circulation. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii), WAC 173-26-211(3)(b)), and WAC 173-26-241(3)(d))
- F. **Environmental protection.** Commercial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(d))
- G. **Public access.** See Section 4.4 and 9.4.4 to 14.4.4. (WAC 173-26-241(3)(d))

## 5.8 Dredging and Dredge Material Disposal

As regulated in this SMP, dredging is the excavation or displacement of the bottom or shoreline of a waterbody for purposes of flood control, navigation, and restoration. This section is not intended to cover other excavations waterward of

the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to regulations found in Section 5.2, General Aquatic Shoreline Modification and Use Regulations and regulations found in sections of this Master Program governing the use or modification with which the excavation is associated, such as Section 5.5, Boating Facilities or Section 5.18, Shoreline Stabilization.

**5.8.1 Policies (based on WAC 173-26-231(2) and (3)(f))**

- A. **Permitted.** Dredging should be permitted for water-dependent uses of economic importance to the region and/or essential public facilities only when necessary and when alternatives are infeasible or less consistent with this SMP.
- B. **Prohibited.** Dredging of bottom materials for the primary purpose of obtaining material for landfill, construction, or beach nourishment should not be permitted.
- C. **Minor dredging.** Minor dredging as part of ecological restoration or enhancement, beach nourishment, public access or public recreation should be permitted if consistent with this SMP.
- D. **Disposal.** Spoil disposal on land outside of shoreline jurisdiction is generally preferred over open water disposal. Disposal of dredged material on shorelands or wetlands within a river's channel migration zone should be discouraged.
- E. **Cooperative management programs.** Long-term cooperative management programs that rely primarily on natural processes, and involve land owners and applicable local, State and Federal agencies and tribes, should be pursued to prevent or minimize conditions which make dredging necessary.
- F. **Siting and design.** New development should be sited and designed to avoid or, where avoidance is not possible, to minimize the need for new maintenance dredging.
- G. **Ecological impacts.** Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

- H. **Navigation channels and basins.** Dredging for the purpose of establishing, expanding, relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized locations, depths and widths.

**5.8.2 Regulations (based on WAC 173-26-231(2) and (3)(f))**

- A. **Siting and design.** New development shall be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
- B. **Allowed dredging activities.** Dredging shall only be permitted for the following activities:
  - 1. Development of new or expanded wet moorages, harbors, ports or water-dependent industries of economic importance to the region only when there are no feasible alternatives or other alternatives may have a greater ecological impact and only where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided.
  - 2. Development of essential public facilities when there are no feasible alternatives.
  - 3. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
  - 4. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
  - 5. Minor trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible, and:
    - a. Impacts to fish and wildlife habitat are avoided to the maximum extent possible.
    - b. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.

- c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
  6. Dredging for the purpose of obtaining fill material is prohibited, except that permitted under Section 5.13, Mining.
  7. Establishing, expanding, relocating or reconfiguring navigation channels where necessary to assure safe and efficient accommodation of existing navigational uses. Maintenance dredging of established navigation channels and basins shall be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.
- C. **Maintain ecological functions and processes.** The physical alignment and ecological functions and processes of shoreline waterbodies shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, dredging and dredge disposal proposals should be first designed to avoid and minimize impacts, prior to pursuing mitigation. When required, mitigation plans shall be prepared by a qualified professional and shall be consistent with the relevant plan requirements of the appropriate responsible government in Appendix B, Critical Areas Regulations.
- D. **Conditions may be applied.** Limitations on dredge or disposal operation may be imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, type of machinery, and may require provision of landscaped buffer strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.
- E. **Circumstances when disposal is allowed.** Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:
  1. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
  2. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

- F. **Circumstances when open water dredge disposal is allowed.** Dredge material disposal in open waters may be approved only when authorized by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife Hydraulic Project Approval (HPA); and when one of the following conditions apply:
1. Land disposal is infeasible, less consistent with this SMP, or prohibited by law; or
  2. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
- G. **Open water dredge disposal conditions.** Dredge materials approved for disposal in open waters shall comply with the following conditions:
1. Offshore habitat will be protected, restored, or enhanced;
  2. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;
  3. Shifting and dispersal of dredge material will be minimal; and
  4. Water quality will not be adversely affected.
- H. **Submittal requirements.** The following information shall be required for all dredging applications:
1. A description of the purpose of the proposed dredging and an analysis of compliance with the policies and regulations of this SMP.
  2. A detailed description of the existing physical character, shoreline geomorphology, and biological resources provided by the area proposed to be dredged, including:
    - a. A site plan map outlining the perimeter of the proposed dredge area. The map must also include the existing bathymetry and have data points at a minimum of 2-foot depth increments.
    - b. A critical areas study.
    - c. A mitigation plan if necessary to address any identified impacts to ecological functions or processes.

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- d. Information on stability of bedlands adjacent to proposed dredging and spoils disposal areas.
3. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:
  - a. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.).
  - b. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand (COD), grease and oil content, mercury, lead and zinc content, etc.).
  - c. Biological analysis of material to be dredged.
4. A description of the method of materials removal, including facilities for settlement and movement.
5. Dredging procedure, including the length of time it will take to complete dredging, method of dredging, and amount of materials removed.
6. Frequency and quantity of project maintenance dredging.
7. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant information on the disposal site, including, but not limited to:
  - a. Dredge material disposal area;
  - b. Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
  - c. Size and capacity of disposal site;
  - d. Means of transportation to the disposal site;
  - e. Proposed dewatering and stabilization of dredged material;
  - f. Methods of controlling erosion and sedimentation; and
  - g. Future use of the site and conformance with land use policies and regulations.

8. Total initial dredge volume.
9. Plan for disposal of maintenance spoils for at least a 50-year period, if applicable.
10. Hydraulic modeling studies sufficient to identify existing geo-hydraulic patterns and probable effects of dredging.

## 5.9 Fill

Fill regulations in this section apply to fills in aquatic and upland environments. "Fill" is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

### 5.9.1 Policies (based on WAC 173-26-231(2) and (3)(c))

- A. **Minimize fill and excavation.** Fill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.
- B. **Location.** Fills and excavation should be located and developed so that water quality, hydrologic and runoff patterns are not altered.
- C. **Shoreline stabilization.** Fill should not be allowed where shoreline stabilization works would be required to maintain the materials placed.
- D. **Restoration.** Excavation and grading may be permitted landward of the OHWM of a waterbody for projects with the primary purpose of restoring ecological functions and natural character.
- E. **Creation of uplands.** Fill in waterbodies, floodways, channel migration zones, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity.
- F. **Permitted.** Fill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build protective berms and-nourish beaches for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with this SMP.

- G. **Benefits and impacts.** The predicted economic benefits of fills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

### 5.9.2 Regulations (based on WAC 173-26-231(2) and (3)(c))

- A. **Protect ecological function.** All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Fill shall be minimized to the maximum extent practicable and necessary to accommodate approved shoreline uses and development activities that are consistent with this SMP.
- B. **Permissible fill and excavation.** Fill and excavation within wetlands, floodways, channel migration zones, or waterward of the OHWM shall only be permitted in limited instances for the following purposes and when other required state or federal permits have been obtained, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this SMP, such as:
  - 1. Water-dependent uses, public access, and cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
  - 2. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources;
  - 3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
  - 4. Ecological restoration or enhancement, including, but not limited to, beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with an approved restoration plan; or
  - 5. Maintenance of lawfully established development.
- C. **Shoreline stabilization.** Fills or excavation shall not be located where shoreline stabilization will be necessary to protect materials placed or removed.



- D. **Physical and visual consistency.** Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.
- E. **Maximum slopes.** Cut and fill slopes shall generally be sloped no steeper than one foot vertical for every three feet horizontal (1:3) unless a specific engineering analysis has been provided, and it can be determined that the fill blends physically and visually with existing topography.
- F. **Erosion control.** A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the Stormwater Management Manual for Eastern Washington shall be provided for all proposed fill and excavation activities, and approved by the Shoreline Administrator prior to commencement of activity. Disturbed areas shall be immediately protected from erosion using weed-free straw, mulches, hydroseed, or similar methods and revegetated, as applicable.

## 5.10 Forest Practices

### 5.10.1 Policies

- A. **Avoid Steep Slopes.** Forest practices should be avoided on shorelines with slopes of such grade that large sediment runoff will result unless adequate restoration and erosion control including seeding, mulching, matting and replanting can be expeditiously accomplished. (1975 SMP Policy 3a)
- B. **Protect Waterways and Floodplains.** Special attention should be directed to forest practices activities including thinning, harvest and road construction to prevent the accumulation of slash and other debris in contiguous waterways and their floodplains. (1975 SMP Policy 3b)
- C. **Visual Impacts.** The visual impact of forest practices should be considered in all shoreline areas. Timber harvesting practices, including road construction and debris removal, should proceed in accord with fundamental landscape management principals so that the quality of the view and viewpoints along shorelines are not degraded. (1975 SMP Policy 3c)
- D. **Buffer Zone.** The use of buffer zones along forested shorelines is encouraged in order to retard surface runoff, reduce siltation, provide shade for fish, and be aesthetically pleasing. (1975 SMP Policy 3d)

- E. **Water Quality.** Timber harvesting practices on shorelines should be conducted to maintain State and Federal water quality standards as appropriate. (1975 SMP Policy 3e)

### **5.10.2 Regulations**

- A. **Conversion to other use.** Preparatory work associated with the conversion of land to non-forestry uses and/or developments shall:
  - 1. Limit the conversion to the minimum necessary to accomplish the purpose and intent of the shoreline use environment, general policies and regulations, and specific shoreline modification and use policies on the subject property. (proposed based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), and low impact development principles)
  - 2. Ensure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access. (WAC 173-26-241(3)(e)).
- B. **State and local forest practice regulations.** All forest practices, including forest conversions, undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the responsible local government. (WAC 173-26-241(3)(e))
- C. **Selective cutting – shorelines of statewide significance.** Within shoreline jurisdiction along shorelines of statewide significance, only selective commercial timber cutting may be permitted so that no more than thirty percent (30%) of the merchantable timber may be harvested in any 10-year period; provided that, other timber harvesting methods may be permitted with a Conditional Use Permit in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental. (RCW 90.58.150)
- D. **Natural environment – limited forest practices.** Within the Natural environment, timber harvesting shall be permitted only where it is necessary to:

1. Preserve a desired pre-climatic state of a plant succession, such as a stand of Douglas-fir, which would be eventually superseded by other species if no cutting were done;
2. Prevent an epidemic of insects or disease infestations in the area or to adjoining areas when no other means of epidemic control will work; or
3. Clean up and restore an area devastated by disaster such as extensive windfall or fire. (1975 SMP Section 14.4.1)

## 5.11 Industry

### 5.11.1 Policies

- A. **Industrial use preference.** Industries are an appropriate land use along shorelines where compatible with existing land use plans and zoning. However, first priority should be given to water-dependent industries over nonwater-dependent uses, and second priority to water-related industries over nonwater-oriented uses. (1975 SMP Policy 9d)
- B. **Industries requiring navigable water.** Water-dependent industries which require frontage on navigable water should be given priority over other industrial uses. (1975 SMP Policy 9c)
- C. **Environmental limitations.** Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas. (WAC 173-26-241(3)(f))
- D. **Water and wastewater facilities.** Sewage treatment and potable water facilities should be located with consideration for economic operation and compatibility with surrounding uses, designed to assure no net loss of ecological functions, and designed not to have significant adverse impacts to other shoreline resources and values. (1975 SMP Policy 9b)
- E. **Cleanup and restoration.** Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. (WAC 173-26-241(3)(f))

### 5.11.2 Regulations

- A. **Water-dependent or water-related uses allowed.** Industrial facilities and structures that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate to the

satisfaction of the responsible local government that proposed uses are water-dependent and/or water-related. (WAC 173-26-241(3)(f))

- B. **Nonwater-oriented industrial uses limited.** In areas designated for industrial use, nonwater-oriented industrial uses are allowed only if the site is physically separated from the shoreline by another property or public right-of-way or railroad prior to adoption of this SMP. On properties fronting the shoreline, new nonwater-oriented industrial development is prohibited in shoreline jurisdiction, except where such use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration, and meets one of the following conditions:
  - 1. The use is part of a mixed-use project that includes water-dependent uses; or
  - 2. Navigability is severely limited at the proposed site.
- C. **Accessory uses to water-dependent or water-related industrial activities.** Accessory industrial development that does not require a shoreline location shall be located upland of the water-dependent or water-related portions of the development and comply with shoreline environment buffers for nonwater-oriented uses. Accessory development includes, but is not limited to, parking, warehousing, open-air storage, waste storage and treatment, and transportation corridors. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii) ,WAC 173-26-211(3)(b), and WAC 173-26-241(3)(f))
- D. **Environmental protection.** Industrial development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access features. (WAC 173-26-241(3)(f))
- E. **Public access.** See SMP Section 4.4 and 9.4.4 to 14.4.4. (WAC 173-26-241(3)(f))

## **5.12 In-Water Structures**

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

### 5.12.1 Policies

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

### 5.12.2 Regulations

- A. **Prohibited projects.** Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, result in a net loss of ecological functions or result in high flood stages and velocities are prohibited.
- B. **Soil stabilization.** Upland cut-and-fill slopes and back-filled areas resulting from installation of in-water structures shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.
- C. **Water quality.** In-water structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The responsible local government shall require reasonable conditions to achieve this objective.
- D. **Prohibited structures.** No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used as in-water structures.
- E. **Natural features.** Natural in water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.
- F. **Design.** In-water structures shall be designed by a qualified professional. In-water structures shall allow for natural groundwater movement and surface runoff, and shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided channels. In-water structures shall not be a safety hazard or obstruct water navigation.
- G. **Dam siting and design.** The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule.
- H. **Dam maintenance agreement and bond.** For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the Ecology reservoir permit requirements, a maintenance agreement and construction bond shall be filed with the responsible local government prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the

maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the State of Washington, and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

- I. **Permits.** Construction of in-water structures may not commence without having obtained all applicable Federal, State, and local permits and approvals, including, but not limited to, an HPA from Washington Department of Fish and Wildlife.
- J. **Public access.** Design of in-water structures shall include access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, in-water structures should not decrease public access or use potential of shorelines.

## 5.13 Mining

### 5.13.1 Policies

- A. **Ecological function.** Mining and associated activities should be designed and conducted to result in no net loss of shoreline ecological functions and processes. Mining should not be approved where it could interfere with shoreline ecological functions or processes, or cause irreparable damage to shoreline resources or features. Application of this policy shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. The determination of whether there will be no net loss of ecological function should be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during operation. Preference should be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. (WAC 173-26-241(3)(h)(ii)(A))
- B. **Location.** Mining should not be located on shorelines where unavoidable adverse impacts, such as noise, vibration, odor, dust or other effects, on other users or resources, taken together, equal or outweigh the benefits from mining. (WAC 173-26-241(3)(h)(ii)(A)) The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts. Mining of shorelines having high value for public recreation should not be permitted.
- C. **Post-mining restoration.** Mining, particularly surface or strip mining, should provide for timely restoration of disturbed areas to a biologically productive, attractive, semi-natural, or other useful condition through a

reclamation process consistent with regulations administered by the Department of Natural Resources and other applicable local standards. (WAC 173-26-241(3)(h)(ii)(B))

- D. **Where permitted.** Mining should only be permitted where detailed operation plans and studies prepared pursuant to Section 4.2.2, Ecological Protection and Critical Areas, and Appendix B, Critical Areas Regulations demonstrate that:
  - 1. Fish habitat, upland habitat and water quality will not be significantly harmed; and
  - 2. The operation will not adversely affect geologic or hydrologic processes, channel alignment, nor increase bank erosion or flood damage.
  
- E. **Minimize adverse impacts.** Mining operations should be located, designed, and managed so that other appropriate uses are not subjected to substantial or unnecessary adverse impacts from of the operation. The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures to minimize adverse impacts.

### **5.13.2 Regulations**

- A. **Location.** Mining shall not be permitted within shoreline jurisdiction within 400 feet of any fish or aquaculture facility, or dam. Mining shall be allowed in designated fish and wildlife habitat areas only as a part of an approved flood control program or in conjunction with a habitat restoration or enhancement plan. Mining in shoreline jurisdiction shall only be approved when the material proposed to be extracted is only available in a shoreline location. This determination shall be based on an evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction; the need for such mineral resources; and economic, transportation, and land use factors. This demonstration may rely on analysis or studies prepared for purposes of comprehensive plan designations, and may be integrated with any relevant environmental review conducted under SEPA (Chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173- 26-201 (2)(a), as amended.
  
- B. **Required plans and analyses.** Application for permits for mining operations shall be accompanied by operation plans, reclamation plans and analysis of environmental impacts in compliance with local ordinances and 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. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining no net loss of ecological functions.

- )C. **Surface mine reclamation plans.** For mining proposals that meet the definition of surface mine in RCW 78.44.031, a reclamation plan that complies with the format and detailed minimum standards of RCW 78.44, Surface mining, shall be included with any shoreline permit application. In reviewing reclamation plans together with permit applications, the Shoreline Administrator shall determine whether or not the plan is also consistent with this SMP and other local regulations. An inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit, provided, the applicant shall be given reasonable opportunity to revise the plan.
- D. **Reclaimed site use.** Subsequent use of reclaimed sites shall be consistent with the provisions of this SMP.
- E. **Waterward of OHWM.** Mining is prohibited waterward of the OHWM of the Columbia River. Mining waterward of the OHWM of other waterbodies shall not be permitted unless:
  - 1. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole; and
  - 2. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

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

- F. **Continuation of mining at existing site.** In considering renewal, extension or reauthorization of other mining operations waterward of the OHWM in locations where they have previously been conducted, the responsible local government shall require compliance with Subsection E to the extent that no such review has previously been conducted. Where there has been prior review, the responsible local government shall review previous determinations comparable to the requirements of this

section to assure compliance with Subsection G under current site conditions. (WAC 173-26-241(3)(h)(ii)(D))

- G. **Channel migration zones.** Any mining in channel migration zones allowed pursuant to each responsible local government's Shoreline Use and Modification Matrix in this Master Program must obtain a Conditional Use Permit, unless it is in-water recreational mining conducted pursuant to the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet.
- H. **Recreational dredge mining.** Recreational dredge mining that strictly follows the activities and requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet is allowed; any recreation dredge mining activities that do not follow the requirements described therein are required to obtain a Conditional Use Permit.
- I. **Rock disturbance.** All rocks, cobbles, and boulders moved during in-water gold-mining activities shall be returned to their original positions.
- J. **Hazardous materials.** The use of mercury or other hazardous substances is strictly prohibited.

## **5.14 Private Moorage Facilities**

The purpose of this section is to provide polices and regulations for the location and design of private docks (serving up to four single-family residences), boatlifts, swim floats, buoys, and moorage piles serving four or fewer single-family residences. Dock is a general term for the structure or group of structures that provides boat moorage or other uses. A dock may be made up of piers (which are structures on fixed piles) and floats (which float on the water's surface and are typically attached to piles so that they may rise and fall with changes in the water's elevation). Swim floats are addressed in Section 5.14.2(F) below.

All moorage facilities that extend onto State-owned aquatic lands must also comply with Washington Department of Natural Resources<sup>7</sup> standards and regulations.

### **5.14.1 Policies**

- A. **Moorage as water-dependent use.** Moorage associated with a single-family residence is considered a water-dependent use provided that it is

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<sup>7</sup> The Washington Department of Natural Resources is currently developing new standards for uses and modifications on State-owned aquatic lands.

designed and used as a facility to access watercraft. (WAC 173-26-231(3)(b))

- B. **Preferred moorage.** To minimize continued proliferation of individual private moorage, reduce the amount of over-water and in-water structures, and reduce potential long-term impacts associated with those structures, mooring buoys are preferred over docks and shared (either joint-use docks or community docks) or public moorage facilities are preferred over single-user moorage. (WAC 173-26-231(3)(b) and consistent with WAC 173-26-231(2)(b, d))
- C. **Avoid impacts to ecological functions.** Moorage should be sited and designed to avoid adversely impacting shoreline ecological functions or processes, and any unavoidable impacts to ecological functions should be mitigated. (WAC 173-26-231(2)(b, d) and WAC 173-26-231(3)(b))
- D. **Minimize interference with navigation and other uses.** Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.
- E. **Minimize size.** Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of over-water structures and other developments regulated by this section should be no greater than that required for safety and practicality for the primary use. (WAC 173-26-321(2)(b) and (3)(b))
- F. **Materials.** Moorage should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term, and have been approved by applicable state agencies. (WAC 173-26-321(3)(b))

#### 5.14.2 Regulations<sup>8</sup>

- A. **Location standards.** Docks, swim floats, buoys, watercraft lifts, and moorage piles shall be located according to the following criteria:
  - 1. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall be sited to avoid adversely impacting shoreline ecological functions or processes. (WAC 173-26-321(2)(d))

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<sup>8</sup> Note: These regulations have been developed to be consistent to the extent possible with established requirements of the U.S. Army Corps of Engineers (where they have jurisdiction) and the Washington State Department of Fish and Wildlife. Flexibility has been added to minimize the amount of Shoreline Variances, using information provided by those agencies regarding occasionally approved deviations and anticipated changes to federal standards.

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2. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating.
  3. Covered docks or other covered structures, except for watercraft lift canopies, are not permitted waterward of the OHWM. (WAC 173-26-321(2)(b, d))
- B. **General design standards.** Docks, boatlifts, swim floats, watercraft lifts, and moorage piles shall be designed according to the following criteria:
1. If moorage is to be provided as part of a new residential development of two or more dwelling units or lots, joint-use or community dock facilities shall be required, when feasible, rather than allow individual docks for each residence. New residential developments shall contain a restriction on the face of the plat prohibiting individual docks. A site for shared moorage should be owned in undivided interest by property owners or managed by the homeowner's association as a common easement within the residential development within the subdivision. Community dock facilities shall be available to property owners in the residential development for community access. If shared moorage is provided, the applicant shall file at the time of building permit submittal for the dock a legally enforceable joint use agreement or other legal instrument that, at a minimum, addresses the following:
    - a. Provisions for maintenance and operation;
    - b. Easements or tracts for community access;  
and
    - c. Provisions for joint or community use for all benefiting parties.
  2. All over- and in-water structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures or materials, including treated wood, pilings, derelict structures, vessels, buoys, and equipment, shall be repaired promptly by the owner or removed.
  3. Lighting associated with overwater structures shall be beamed, hooded or directed to avoid causing glare on adjacent properties

or waterbodies. Illumination levels shall be the minimum necessary for safety. (WAC 173-26-321(2)(b, d))

4. Temporary moorages shall be allowed for vessels used in the construction of shoreline facilities. The design and construction of temporary moorages shall be such that upon termination of the project, the aquatic habitat in the affected area can be returned to its original (pre-construction) condition within one year at no cost to the environment or the public.
5. No skirting is allowed on any structure. (WAC 173-26-321(2)(b, d))
6. If a dock is provided with a safety railing, such railing shall not exceed 36 inches in height and shall be an open framework, following appropriate safety standards, that does not unreasonably interfere with shoreline views of adjoining properties.
7. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. Exterior finish of all structures shall be generally non-reflective.
8. Private moorage for float planes may be permitted accessory to existing or concurrently proposed moorage where construction would not adversely affect shoreline functions or processes, including wildlife use, or interfere with navigation. Mitigation may be required to compensate for the greater intensity of activity associated with the use.

- C. **Dock dimensional and materials standards.** The following dimensional standards shall apply to all new docks serving four or fewer single-family residences. Deviations from the dimensional standards must be approved through a Shoreline Variance.

Table 5-1. Dimensional Standards for Docks.

<b>Dimension/ Specification</b>	<b>Columbia River</b>	<b>Lake Chelan</b>	<b>Other Waterbodies</b>
Width	1.a, 1.c	1.b – 1.c	1.b – 1.c
Length	2.a – 2.b	2.c	2.d
Area	3.a	3.b - 3.c	3.a
Height	4	no standard	4
Pilings	5.a - 5.g	5.a – 5.c	5.a – 5.c, 5.e
Spacing	6.a - 6.c	6.a - 6.c	6.a - 6.c
Decking/Materials	7.a – 7.b, 7.d	7.c - 7.d	7.a – 7.b, 7.d

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1. Width.
  - a. Piers and ramps shall not exceed 4 feet in width. Floats shall not exceed 8 feet in width. Pier and ramp widths may be increased to 5 feet when the applicant can demonstrate a specific need for access consistent with Americans with Disabilities Act requirements and if all other State and Federal permits are obtained. (Columbia River)
  - b. Piers and floats shall not exceed 8 feet in width. Ramps shall not exceed 4 feet in width. (Lake Chelan and Other Waterbodies)
  - c. Fingers shall not exceed 2 feet in width. (All Waterbodies)
2. Length.
  - a. Piers and/or ramps shall extend at least 20 feet perpendicular from the OHWM. (Columbia River)
  - b. Floats may not exceed 20 feet in length. The length of the pier and/or ramp must be sufficient to extend the float such that water depth at the landward edge of floats is sufficient for safe boat moorage, and must be at least 20 feet long. (Columbia River)
  - c. The length of the dock shall not exceed 55 feet or the length necessary in order for the waterward terminal 20 feet of the dock to be located over water 12 feet deep when measured at ordinary high water, whichever is greater. Docks shall not exceed 100 feet without first obtaining a Shoreline Variance. (Lake Chelan)
  - d. The length of the dock shall not exceed the length necessary in order for the end of the dock to reach a water depth of 12 feet measured at ordinary high water. (Other Waterbodies)
3. Area.
  - a. The area of new docks shall be limited by the maximum width and length allowed in Section 5.14.2.C.1 and Section 5.14.2.C.2. Only one float is allowed per single-use dock.

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A maximum of two floats is allowed for joint-use docks.  
(Columbia River and Other Waterbodies)

- b. 320 square feet for single use docks. This number may be increased by 8 square feet for each additional foot of length beyond 55 feet necessary to reach 12 feet of water depth measured at ordinary high water. (Lake Chelan)
  - c. 450 square feet for joint use docks. This number may be increased by 8 square feet for each additional foot of length beyond 55 feet necessary to reach 12 feet of water depth measured at ordinary high water. (Lake Chelan)
4. Height. The bottom of any piers or the landward edge of any ramp must be at least 2 feet above the OHWM. The freeboard height on all floats must be at least 10 inches. (Columbia River and Other Waterbodies)
5. Dock Support Piles.
- a. Piling shall be structurally sound and cured prior to placement in the water. (All Waterbodies)
  - b. Pilings shall not be treated with pentachlorophenol, creosote, or comparably toxic compounds. (All Waterbodies)
  - c. Pilings shall not extend beyond the end of the dock. (All Waterbodies)
  - d. Pilings shall not exceed 4 inches in diameter. If a piling is encased in a sleeve, the piling plus sleeve diameter shall not exceed 5 inches. Piles up to 8 inches in diameter may be approved by the Shoreline Administrator without a Shoreline Variance if the designing engineer documents need for larger piles for safety or structural reasons. (Columbia River)
  - e. Pilings or piling sleeves shall be white in color. (Columbia River and Other Waterbodies)
  - f. Pilings shall be spaced at least 18 feet apart on the same side of any component of the pier or float. The pier and floats are separate components. Closer pile spacing may be approved by the Shoreline Administrator without a

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Shoreline Variance if the designing engineer documents need for reduced pile spacing for safety or structural reasons. (Columbia River)

- g. A maximum of 10 piles per overwater structure is permitted, unless reduced pile spacing consistent with subsection f above creates a need for additional piles. (Columbia River)
6. Spacing.
- a. Overwater structures, including any accessory watercraft lifts, shall be spaced a minimum of 10 feet from the side property lines. Joint-use structures may abut or overlap property lines provided the adjacent property owners have mutually agreed to the structure location, and the agreement is recorded through contract or covenant is recorded with the County Auditor's Office. (All Waterbodies)
  - b. For those new docks located adjacent to larger existing overwater structures, such as marinas or community docks, the responsible local government may require a greater separation between moorage structures to reduce potential navigation and use conflicts. (All Waterbodies)
  - c. No new structure may be installed within 100 feet of the outlet of any river or stream. Further, no new structure may be installed within 300 feet of the mouth of the Stehekin River, and Fish, Prince, Railroad, Safety Harbor, and Twentyfive Mile Creeks. (All Waterbodies)
7. Decking/Materials.
- a. Grating or clear translucent material shall cover the entire surface area of the pier, ramp and/or float. The open area of grating shall be at least 60% and clear translucent materials shall have greater than 90% light transmittance as rated by the manufacturer. (Columbia River and Other Waterbodies)
  - b. Float materials contacting the water shall be white in color or transparent. (Columbia River and Other Waterbodies)



- c. Decking shall be installed so that a minimum ½ inch space is left between deck planks. Grating or other deck materials that provide at least as much light transmission below the deck are allowed. (Lake Chelan)
  - d. Flotation materials shall be permanently encapsulated. (All Waterbodies)
- D. **Mooring piles.** Mooring piles are located adjacent to docks to provide a supplementary point to which a boat could be tied for additional security and stability. They are preferred over fingers or other over-water structures that often serve the same purpose, and are not independently locations for moorage. Mooring piles may be allowed as an accessory to docks, provided:
- 1. All piles shall be located not farther than 20 feet to the side of a dock, and must be at least 10 feet from side property lines.
  - 2. In no case may a pile be placed farther waterward than the end of the dock.
  - 3. The height of the piles shall be between 2 and 6 feet above the OHWM.
- E. **Mooring Buoys.**
- 1. Each waterfront single-family residence or parcel may be allowed one moorage buoy in addition to a dock on lakes or the Columbia River. Mooring buoys are not allowed on other waterbodies.
  - 2. Mooring buoys shall be placed at a distance specified by State and Federal agencies with jurisdiction to avoid nearshore habitat and to minimize obstruction to navigation. However, buoys shall not extend farther waterward of the OHWM than 200 feet and no closer than 50 feet, and shall be anchored at least 25 feet from side property lines or at the center of a parcel when the lot is less than 50 feet wide. (based on Tahoe regulations example) Private buoys shall not be placed within 100 feet of a public facility or park.
  - 3. At a minimum, the buoy shall be placed so that the boat will not ground at any time and is in water at least 7 feet deep at ordinary high water. (based on Corps Programmatic and DNR regulation)

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4. A radius of 100 feet from the proposed buoy shall be clear of existing buoys, docks, and other hazards. (based on Port Townsend SMP and DNR regulations)
5. A mooring buoy shall secure no more than two boats. (Pt. Townsend SMP)
6. Buoys do not exceed 4 per acre. (based on Corps Programmatic)
7. Anchor, buoy, and moored vessel are not located over or within 25 feet of vegetated shallows (except where such vegetation is limited to State-designated noxious weeds). (based on DNR regulation and Corps programmatic)
8. Anchor, buoy, and moored vessel are not to be located over or within 300 feet of spawning habitat for listed or proposed fish species, or over or within 25 feet of spawning habitat for other native fish species. (based on Corps Programmatic)
9. Anchors should be helical screw anchors or other embedded anchors. If substrate is too hard, a 5-gallon bucket filled with cured concrete may be used. Other design features shall meet Washington Department of Fish and Wildlife, U.S. Army Corps of Engineers and/or Department of Natural Resources standards. (based on Corps programmatic)

### **F. Swim floats.**

1. Private swim floats should be no longer than 8 feet and no wider than 8 feet.
2. Where private swim floats are allowed, they must utilize the least impacting anchor method available and suited to the site-specific location. Anchors and other design features shall meet Washington Department of Fish and Wildlife and/or Department of Natural Resources standards.
3. Swim floats shall be placed at a distance specified by State and Federal agencies to avoid nearshore habitat and to minimize obstruction to navigation, and must be located at least 10 feet from side property lines.
4. Only one swim float may be approved per waterfront property. Private swim floats on the Columbia River may only be approved when no other overwater structures are present. Swim floats

supplementary to an existing dock may be approved on Lake Chelan and other waterbodies only when necessary for safety or to accommodate the expected level of swim use.

**G. Mitigation.**

1. Consistent with the mitigation sequencing steps outlined in Section 4.2.2, Ecological Protection and Critical Areas, new or expanded overwater and in-water structures, including watercraft lifts, should be first designed to avoid and minimize impacts, prior to pursuing mitigation. (WAC 173-26-321(3)(b))
2. Mitigation proposals shall provide one unit of mitigation for each unit of lost function unless justified as outlined in regulation 4.2.2.D. The mitigation provided shall be consistent with Section 4.2, Ecological Protection and Critical Areas. The proposed mitigation plan shall include a discussion of how the proposed mitigation adequately compensates for any lost functions. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
3. Appropriate mitigation may include one or more of the following measures, or other measures when consistent with objective of compensating for ecological function impacts, when the subject of the application and the proposed mitigation are otherwise legal modifications installed under the approvals required at the original time of installation:
  - a. Removal of any additional existing over-water and/or in-water structures that are not the subject of the application or otherwise required to be removed. (based on RGP)
  - b. For dock additions, partial dock replacements or other modifications approved under this section, replacement of areas of existing solid over-water cover with grated material or use of grating on those altered portions of piers if they are not otherwise required to be grated .
  - c. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of trees and shrubs native to Chelan County and typically found in undisturbed riparian areas. When shoreline plantings are the only mitigation option for a given pier proposal, the

additional overwater cover should be compensated for at a 1:1 planting area ratio (unless modified as described in Section 4.2.2.D) with required trees planted on 12-foot centers and shrubs planted on 6-foot centers.

- d. Removal of hardened shoreline, including existing launch ramps, and replacement with native vegetation.
  - e. 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.
  - f. Placement of large woody debris.
  - g. Participation in an approved mitigation banking or in-lieu-fee program.
- H. **Replacement of Existing Docks.** Proposals involving replacement of the entire existing private dock are considered a new moorage facility and must meet the dimensional, materials and mitigation standards for new private docks as described in Section 5.14.2.
- I. **Additions to Private Dock.** Proposals involving the modification and/or enlargement of existing private docks must comply with the following measures:
- 1. The applicant must demonstrate to the satisfaction of the responsible local government that there is a need for the enlargement of an existing dock. Proposals that demonstrate an enlargement is necessary due to safety concerns or inadequate depth of water will be considered.
  - 2. Enlarged portions of docks must comply with the dimensional, design, materials and mitigation standards for new private docks as described in Section 5.14.2. Dock additions that result in the completed structure exceeding the area limits for reasons not specifically allowed above may only be approved through a Shoreline Variance.
- J. **Repair of Existing Private Dock.** Maintenance and repair proposals using treated materials must use only chemicals approved by the appropriate State or Federal agencies, and must be cured prior to placement in or over the water. All other materials requirements of this section shall also be met.

## 5.15 Recreational Development

### 5.15.1 Policies

- A. **Promote recreation and public access.** Developments and uses should be designed and operated to provide the public with recreational areas, facilities, and access to the shorelines. ( based on 1975 SMP Policy 17.a)
- B. **Support facilities and access.** Recreational areas should be supported by multi-use trails and parking to prevent undue concentration and pressure on fragile natural areas. Parking should be located upland from the shoreline recognizing the limited supply of shoreline areas. (1975 SMP Policy 17.b and c)
- C. **Pedestrian-oriented.** Direct access to the water should be via paths, walkways, or other pedestrian-oriented features. Vehicular traffic on beaches and fragile shorelines should be prohibited. (1975 SMP Policy 17.c)
- D. **Public acquisition.** To reduce overcrowding of current facilities and avoid adverse impacts on adjacent properties, the increased public acquisition and dedication of land for shoreline parks and recreation areas are encouraged. (1975 SMP Policy 17.d)
- E. **Grounds management.** The use of fertilizers and pesticides to maintain recreational facilities such as golf courses and playfields should be closely monitored to prevent contamination of waterbodies by runoff. (1975 SMP Policy 17.e) Non-chemical management methods are preferred over chemical management where feasible and practical.
- F. **Prevent impact to private property.** The location, design, construction and operation of recreational facilities should prevent undue adverse impacts on adjacent or nearby private properties. (1975 SMP Policy 17.f)
- G. **Scenic views and vistas.** Scenic views and vistas should be preserved in the design of recreational facilities, wherever practical. (1975 SMP Policy 17.g)
- H. **State and Federal recreation use preferred to local acquisition.** As an economical alternative to new acquisition by local agencies, the use of State and Federal lands for recreational facilities should be considered. State-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public. (1975 SMP Policy 17.i)

### 5.15.2 Regulations

- A. **Design.** Recreational uses and facilities shall be designed to be primarily related to access, enjoyment and use of the water and shorelines of the state. (WAC 173-26-241(3)(i))
- B. **Use consistency.** Proposed recreation uses shall be designed, located and operated consistent with the purpose and intensity of the shoreline environment designation and environmental conditions. (WAC 173-26-241(3)(i))
- C. **Accessory uses.** Accessory uses and support facilities such as maintenance facilities and parking lots shall be consolidated and located in upland areas outside shoreline, wetland and riparian buffers to the extent feasible. (WAC 173-26-201(2)(d), WAC 173-26-241 (2)(a)(iii) ,WAC 173-26-211(3)(b), and WAC 173-26-241(3)(i))
- D. **Public access.** See SMP Section 4.4 and 9.4.4 to 14.4.4. Where recreation facilities for public access include overwater structures, such as public view or fishing platforms, those overwater structures should comply with relevant requirements of SMP Section 5.5, Boating Facilities (WAC 173-26-241(3)(i))
- E. **Fertilizer and chemical management.** For recreation developments such as golf courses and playfields that require the use of fertilizers, pesticides, or other chemicals, the applicant shall submit plans demonstrating the best management practices and methods to be used to prevent these chemical applications and resultant leachate from entering adjacent waterbodies. Non-chemical management methods are preferred over chemical management where feasible and practical. (Implements Policy 5.15.1.E above from 1975 SMP)
- F. **Compatibility with adjacent private properties.** Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties. (WAC 173-26-221(4)(b))
- G. **Adequate utilities and services.** Proposals for recreational development shall include facilities for water supply, wastewater, and garbage disposal in conformance with responsible local government standards.
- H. **Environmental protection.** Recreational development shall be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions. (WAC 173-26-241(3)(i))

## 5.16 Residential Development

### 5.16.1 Policies

- A. **Compatibility with shoreline.** All subdivisions and residential development should be designed at a level of site coverage and density compatible with the physical capabilities of the shoreline and water in order to minimize probabilities of damage to life, property and the environment. (1975 SMP Policy 5a)
- B. **Cluster development.** Cluster development should be encouraged outside shoreline jurisdiction wherever feasible to minimize shoreline impacts by residential development, to maintain both on-site and off-site aesthetic appeal, and to minimize disruption of the natural shoreline. (1975 SMP Policy 5b)
- C. **Encourage restoration and environmental design.** Ecological restoration and measures to minimize environmental impacts, such as low impact development and vegetation conservation and enhancement, should be encouraged. (based on principles of environmental impact mitigation in WAC 173-26-201(2)(e), vegetation conservation in WAC 173-26-221(5), low impact development principles, and example SMPs)
- D. **Aesthetics.** All subdivisions and residential development should be designed to adequately protect and/or improve the water and shoreline aesthetic qualities. (1975 SMP Policy 5c)
- E. **Overwater residential development.** New over-water residential development should be prohibited. (1975 SMP Policy 5d)
- F. **Floating homes.** New floating homes should be prohibited. Existing, legally established, floating homes may continue and should be managed in accordance with the policies on marinas and docks and applicable non-conforming regulations. (1975 SMP Policy 5h and WAC 173-26-241(3)(j))
- G. **Liveboards.** Liveboards may be authorized provided the use is managed to limit impacts to shoreline resources consistent with State regulations. (WAC 173-26-241(3)(c)(v))
- H. **Adequate utilities.** Residential development should have adequate provision for sanitary sewage disposal, storm drainage, and water supply which minimizes harmful effects on shorelines. (1975 SMP Policy 5f)
- I. **Focus residential development into areas with utilities and streets.** Residential development should be encouraged upland of areas presently

having such improvements as utilities and streets so as to minimize additional expenditures of public funds, maximize use of existing public facilities, and not decrease availability of open space. (1975 SMP Policy 5g)

- J. **Provide public access.** Residential developments should be encouraged to provide public access to shorelines within the development and to minimize impacts of vehicular use and parking upon shoreline aesthetics. (1975 SMP Policy 5i)
- K. **Scenic views.** Residential development should be designed to avoid impacts to scenic views and vistas. (based on 1975 SMP Policy 5j)

## **5.16.2 Regulations**

- A. **Subdivisions and plats.** Subdivisions and plats shall: (WAC 173-26-241(3)(j))
  - 1. Comply with all applicable subdivision and zoning regulations.
  - 2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities and other support facilities in conformance with responsible local government standards and which do not result in harmful effects on the shoreline or waters. See Section 4.6.2.E for specific wastewater requirements.
  - 3. Be designed to prevent the need for new shoreline stabilization or flood hazard reduction measures per Section 4.3.
  - 4. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from division of land at full build-out of all lots and throughout all phases of development.
  - 5. Be required to cluster residential units and structures where necessary and when allowed by the responsible local government to avoid critical areas and to preserve natural features and minimize physical impacts.
  - 6. Identify locations for community access, community or joint use docks, marinas, or conservation and utility easements, where proposed.
- B. **Environmental protection.** Residential development including accessory uses and appurtenant structures shall: (WAC 173-26-241(3)(j))



1. Meet all applicable critical area, vegetation conservation, and water quality standards of Chapter 4, Appendix B, and other Vegetation Conservation sections of this SMP.
  2. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. To accomplish this, the responsible local government shall apply buffers established in Appendix B, may apply greater buffers, and shall apply applicable shoreline buffers found in Vegetation Conservation sections of this SMP.
  3. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.
- C. **Public access.** See SMP Section 4.4 and 9.4.4 to 14.4.4. (WAC 173-26-241(3)(j))
- D. **Over-water residences and floating homes.** New over-water residences and floating homes shall be prohibited. Existing communities of floating and/or over-water homes shall be recognized as non-conforming uses per Chapter 6 of this SMP. Improvements to existing communities shall be permitted when associated with life safety matters and common maintenance consistent with the standards for boating facilities, piers and docks in Sections 5.5 and 5.14 of this SMP. Floating and/or over-waterhomes may be replaced at existing communities provided no new over-water or in-water structures are required. (WAC 173-26-241(3)(j))
- E. **Liveaboards.** When a liveaboard is allowed in waters regulated by a County or City, that use must be conducted consistent with best management practices and in accordance with federal, state, and local laws governing proper disposal of sewage, oil and hazardous substances, gray water, and solid wastes. Liveaboards shall be accommodated only in marinas equipped with the necessary facilities. Liveaboards must be located and operated such that navigation and lawful public access on those waters is not obstructed or made hazardous. Liveaboards moored on State-owned aquatic lands must comply with all other provisions in WAC 332-30-171.
- F. **Accessory uses.** Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in Vegetation Conservation standards and Appendix B. Residential accessory uses shall be prohibited over the water unless clearly water-

dependent for recreational or personal use. (based on WAC 173-26-241 (2)(a)(iii) and 173-26-211(3)(b))

- G. **Underground Utilities.** See Section 5.20.

## 5.17 Shoreline Habitat and Natural Systems Enhancement Projects

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

### 5.17.1 Policies (based on WAC 173-26-231(3)(g))

- A. **Design.** Restoration and enhancement of shorelines should be designed using principles of landscape and conservation ecology and should restore or enhance chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
- B. **Improve shoreline ecological functions.** Restoration and enhancement actions should improve shoreline ecological functions and processes and should target meeting the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, National Marine Fisheries Service and/or U.S. Fish and Wildlife Service.
- C. **Pursue funding.** The responsible local government should, and private entities are encouraged to, seek funding from State, Federal, private and other sources to implement restoration, enhancement, and acquisition projects, particularly those that are identified in the Restoration Plan of this SMP or the local watershed plans.
- D. **Streamline review.** The responsible local government should develop processing guidelines that will streamline the review of restoration-only projects.
- E. **Coordination.** Restoration and enhancement projects should be coordinated with local public utility and conservation districts.
- F. **Alternative mechanisms.** Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

### 5.17.2 Regulations (based on WAC 173-26-231(3)(g))

- A. **Approved plan.** Restoration and enhancement shall be carried out in accordance with an approved shoreline restoration plan.
- B. **Protect adjacent resources.** All shoreline restoration and enhancement projects shall protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
- C. **Maintenance and monitoring.** Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.
- D. **Adverse affects.** Shoreline restoration and enhancement may be allowed if the project applicant demonstrates that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.
- E. **Use of best information and BMPs.** Shoreline restoration and enhancement projects shall be designed using the best available scientific and technical information, and implemented using best management practices.
- F. **Public use of waters.** Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
- G. **Permitted.** Shoreline restoration and ecological enhancement projects may be permitted in all shoreline environments, provided the project's purpose is the restoration of the natural character and ecological functions of the shoreline.
- H. **Relief for OHWM shifts.** Applicant's seeking to perform restoration projects are advised to work with the responsible local government to assess whether and how the proposed project allows relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

### 5.18 Shoreline Stabilization

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

### 5.18.1 Policies

- A. **Ecological functions and processes.** Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines.
- B. **Alternatives.** Structural shoreline stabilization measures should only be used when more natural, flexible, non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:
  - 1. No action. Allow the shoreline to retreat naturally, increase buffers, and relocate structures.
  - 2. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
  - 3. Rigid works constructed of artificial materials such as riprap or concrete.
- C. **Future stabilization.** Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require shoreline stabilization for reasonable development to occur.
- D. **Protect existing structures.** New or expanded structural shoreline stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure, including residences, that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.
- E. **Enhancement, restoration and remediation.** New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non-structural measures, vegetation planting, or on-site drainage

improvements would be insufficient to achieve enhancement, restoration or remediation objectives.

- F. **Site-specific design.** Shoreline stabilization on streams should be located and designed to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.
- G. **Public access and other uses.** Shoreline stabilization should not be permitted when it interferes with public access to shorelines of the state, nor with other appropriate shoreline uses including, but not limited to, navigation or private recreation.
- H. **Non-regulatory methods.** In addition to conformance with the regulations in this section, non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.
- I. **Coordination.** Shoreline stabilization should be developed in a coordinated manner among affected property owners and public agencies, particularly those that cross jurisdictional boundaries, to address ecological and geo-hydraulic processes, sediment conveyance, and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established by the multiple affected property owners.
- J. **Public or quasi-public developments.** Provisions for multiple use, restoration, and/or public shoreline access should be incorporated into the location, design and maintenance of shoreline stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.
- K. **Materials.** Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.
- L. **Adjacent properties.** New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

## 5.18.2 Regulations

- A. **General.** The purpose of this section is to provide standards and guidelines for the location and design of hard structural and soft structural shoreline stabilization measures that have the potential to adversely impact the shoreline natural environment. New development, however, shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. In all cases, the feasibility of soft structural shoreline stabilization shall be evaluated prior to hard structural stabilization. Shoreline stabilization shall be designed so that net loss of ecological functions does not occur. (WAC 173-26-231(3)(a)(iii)(A))
- B. **New or enlarged structural shoreline stabilization.** New structural shoreline stabilization measures, including both hard and soft structural shoreline stabilization measures, shall include measures installed to address erosion impacts. Enlargement of an existing structural shoreline stabilization shall include additions to or increases in size (such as height, width, length, or depth) to existing shoreline stabilization measures and these enlargements shall be considered new structures. New or enlarged structural stabilization measures shall not be allowed, except as follows:
1. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization. OR (WAC 173-26-231(3)(a)(iii)(B)(I))
  2. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
    - a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
    - b. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion impacts.

- c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves. OR (WAC 173-26-231(3)(a)(iii)(B)(II))
  3. In support of water-dependent development when all of the conditions below apply:
    - a. The erosion is not being caused by upland conditions, such as drainage and the loss of vegetation.
    - b. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
    - c. The need to protect primary structures, including residences, from damage due to erosion is demonstrated through a geotechnical report. OR (WAC 173-26-231(3)(a)(iii)(B)(III))
  4. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts. (WAC 173-26-231(3)(a)(iii)(B)(IV))
- C. **Repair of existing shoreline stabilization measures.** This section allows repair and maintenance of existing shoreline stabilization measures, subject to all of the following standards. [Note: repair and replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, but they are not exempt from the policies and regulations of this Section or the SMP.]
  1. Maintenance and repair shall include modifications or improvements to an existing shoreline stabilization measure that are designed to ensure the continued function of the stabilization measure by preventing failure of any part of the stabilization measure.
  2. Modifications or improvements that include additions to or increases in size of existing shoreline stabilization measures shall be considered new structures, and are not a repair.

3. Replacement of greater than 50 percent or 35 feet, whichever is smaller, of linear length of existing shoreline stabilization on a waterfront parcel is not considered a repair for purposes of these regulations, and must be designed and reviewed as a replacement subject to the provisions contained in Subsection 5.18.2.D below. For shoreline stabilization projects, "replacement" occurs when the existing structure, including its footing or bottom course of rock, is removed prior to placement of new shoreline stabilization materials. Repairs that involve only removal of material above the footing or bottom course of rock are not considered replacements. Replacement of existing shoreline stabilization may still qualify for an exemption from a Shoreline Substantial Development Permit as listed in Section 7.6.3 of this SMP. Further limitations on non-conforming shoreline stabilization are located in each responsible local government's Nonconforming Uses and Development Standards section of this Master Program.
4. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.
5. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, and is not maintenance or repair.

**D. Replacement.** The following standards apply to replacement of existing hard and soft structural shoreline stabilization measures:

1. For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall also be considered new structures. (WAC 173-26-231(3)(a)(iii)(C))
2. Replacement shall be treated as a new shoreline stabilization measure subject to the restrictions of Subsection 5.18.2.B. above, as well as the submittal requirements of Subsection 5.18.2.-H. below, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM. (WAC 173-26-231(3)(a)(iii)(C))



3. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the primary structure was constructed prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure. (WAC 173-26-231(3)(a)(iii)(C))
  4. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat. (WAC 173-26-231(3)(a)(iii)(C))
- E. **General design standards.** When a hard or soft structural shoreline stabilization measure is demonstrated to be necessary, the following design standards shall be incorporated into the stabilization design:
1. Soft structural shoreline stabilization measures shall be used to the maximum extent practicable for new, enlarged, or replacement shoreline stabilization measures, limiting hard structural shoreline stabilization measures to the portion or portions of the site where necessary to protect or support existing shoreline structures or trees, or where necessary to connect to existing shoreline stabilization measures on adjacent properties. Hard structural shoreline stabilization transition areas between the applicant's otherwise soft shoreline measure and the adjacent hardened shoreline, when needed on the subject property to prevent destabilization of adjacent hardened shorelines, should be minimized and extend into the subject property from the property line no more than 10 feet.
  2. For enlarged or replacement soft and hard structural shoreline stabilization measures, the following location and design standards are preferred in descending order:
    - a. Conduct excavation and fill activities associated with the soft or hard structural shoreline stabilization landward of the existing OHWM to the maximum extent practicable.
    - b. Where a, above, is not practicable because of overriding safety or environmental concerns, conduct necessary

excavation and fill activities waterward of the existing OHWM as needed to implement a soft structural shoreline stabilization technique or to mitigate the impacts of hard structural shoreline stabilization.

3. All approved new, enlarged, repair, or replacement shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities, consistent with Section 4.2, Ecological Protection and Critical Areas and Appendix B, Critical Areas Regulations. Impact minimization techniques may include compliance with appropriate timing restrictions, use of best management practices to prevent water quality impacts related to upland or in-water work, and stabilization of exposed soils following construction.
4. All new, enlarged, or replacement hard structural shoreline stabilization measures should minimize any long-term adverse impacts to ecological functions by incorporating the following measures into the design:
  - a. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including height, depth, and mass.
  - b. Shifting the hard structural shoreline stabilization landward and/or sloping the hard structural shoreline stabilization landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat.
5. Approved new and enlarged shoreline stabilization measures shall mitigate any adverse impacts to ecological functions by incorporating the following measures at a minimum into the design if appropriate for local conditions:
  - a. Restoration of appropriate substrate conditions waterward of the OHWM, to include substrate composition and gradient. The material should be sized and placed to remain stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events.
  - b. Plant native riparian vegetation, as necessary, along at least 75 percent of the shoreline frontage affected by the

new or enlarged stabilization, located along the water's edge. The vegetated portion of the shoreline buffer shall average 10 feet in depth from the OHWM, but may be a minimum of 5 feet wide to allow for variation in landscape bed shape and plant placement. Restoration of native vegetation shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. At least 3 trees per 100 linear feet of shoreline must be included in the plan. Plant materials must be native to Chelan County. An alternative planting plan or mitigation measure in lieu of meeting these requirements may be allowed if approved by other State and Federal agencies.

- c. Additional mitigation measures may be required by the responsible local government, or State or Federal agencies, depending on the level of impact.
6. The shoreline stabilization measure shall be designed to not significantly interfere with normal surface and/or subsurface drainage into the adjacent waterbody.
7. The shoreline stabilization measure shall be designed so as not to constitute a hazard to navigation.
8. Stairs or other water access measures may be incorporated into the shoreline stabilization (e.g., steps integrated into the bulkhead, coved area with shallow entry), but shall not extend waterward of the shoreline stabilization measure and the OHWM.
9. The shoreline stabilization measure shall be designed to ensure that it does not restrict appropriate public access to the shoreline. When a structural shoreline stabilization measure is required at a public access site, provisions for safe access to the water shall be incorporated into the shoreline stabilization structure design (e.g., steps integrated into the bulkhead, coved area with shallow entry). Access measures should not extend farther waterward than the face of the shoreline stabilization measure and the OHWM.
10. Shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

11. When repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location, any buffers from the OHWM or lot area for the purposes of calculating lot coverage shall be measured from the pre-modification location. The pre-modification OHWM shall be recorded in a form approved by the responsible local government and recorded at the Chelan County Auditor's Office.
  12. If repair or replacement shoreline stabilization measures intended to improve ecological functions shift the OHWM landward of the pre-modification location and result in expansion of the shoreline jurisdiction on any property other than the subject property, the plan shall not be approved until the applicant submits a copy of a statement signed by the property owners of all affected properties, in a form approved by the responsible local government and recorded at the Chelan County Auditor's Office, consenting to the shoreline jurisdiction creation and/or increase on such property.
- F. **Specific hard structural shoreline stabilization design standards.** In those limited instances when hard structural shoreline stabilization measures, such as bulkheads, are demonstrated to be necessary as outlined in H.1 below, the following standards shall be incorporated into the design:
1. In those limited cases when hard structural shoreline stabilization is approved on a site where hard structural shoreline stabilization is not located on adjacent properties, the construction of hard structural shoreline stabilization shall tie in with the existing contours of the adjoining properties, as feasible, such that the proposed stabilization would not cause erosion of the adjoining properties.
  2. When hard structural shoreline stabilization is approved on a site where hard structural shoreline stabilization is located on adjacent properties, the proposed stabilization may tie in flush with existing stabilization measures on adjoining properties, provided that the new stabilization does not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and does not extend onto the adjacent property. In such circumstances, the remaining portion of the stabilization shall be placed landward of the existing OHWM such that no net intrusion into the waterbody occurs nor does net creation of uplands occur. The length of hard structural shoreline

stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet.

3. Fill behind hard structural shoreline stabilization shall be limited to 1 cubic yard per running foot of stabilization. Any filling in excess of this amount shall be considered a regulated activity subject to the regulations in this Chapter pertaining to fill activities and the requirement for obtaining a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit.

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

1. The soft shoreline stabilization design shall provide sufficient protection of adjacent properties by tying in with the existing contours of the adjoining properties to prevent erosion at the property line. Projects that include necessary use of hard structural shoreline stabilization measures, as indicated by the appropriate study prepared per H below, only near the property lines to tie in with adjacent properties shall be permitted as soft shoreline stabilization measures. The length of hard structural shoreline stabilization transition area to adjacent properties should be minimized to the maximum extent practicable, and extend into the subject property from adjacent properties no more than 10 feet. The hard structural shoreline stabilization transition area shall not extend waterward of the OHWM, except as necessary to make the connection to the adjoining stabilization, and shall not extend onto the adjacent property.
2. The soft shoreline stabilization design shall size and arrange any gravels, cobbles, logs, and boulders so that the project remains stable during a two-year flood event on rivers and under typical boat- and wind-driven wave conditions on lakes, including storm events, and dissipates wave and current energy, without presenting extended linear faces to oncoming waves or currents.

**H. Submittal requirements.** In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit the following as

part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

1. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with an engineering license. The report shall include the following:
  - a. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that there is a significant possibility that an existing structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures. (WAC 173-26-231(3)(a)(iii)(D))
  - b. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM. (WAC 173-26-231(3)(a)(iii)(B)(I))
  - c. An assessment of alternative measures to shoreline stabilization, including:
    - (1) Placing the development farther from the OHWM.
    - (2) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
  - d. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation. (WAC 173-26-231(3)(a)(iii)(E))

- e. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
2. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following: (WAC 173-26-231(3)(a)(iii)(C))
    - a. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.
    - b. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization.
    - c. An assessment of alternative measures to shoreline stabilization, including:
      - (1) Relocating the development farther from the OHWM.
      - (2) Correcting any on-site groundwater or drainage issues that may be causing shoreline erosion.
    - d. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. Soft structural shoreline stabilization may include the use of gravels, cobbles, boulders, and logs, as well as vegetation.
    - e. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.
  3. A demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization

measures, resulting in significant restoration of shoreline ecological functions or processes.

4. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:
  - a. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.
  - b. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation. The sizing and placement of all materials shall be selected to accomplish the following objectives:
    - (1) Protect the primary structures from erosion and other damage over the long term, and accommodate the normal amount of alteration from currents and wind- or boat-driven waves;
    - (2) Allow safe passage and migration of fish and wildlife; and
    - (3) Minimize or eliminate juvenile salmon predator habitat.
  - c. For projects that include native vegetation, a detailed five-year vegetation maintenance and monitoring program to include the following:
    - (1) Goals and objectives of the shoreline stabilization plan;
    - (2) Success criteria by which the implemented plan will be assessed;
    - (3) A five-year maintenance and monitoring plan, consisting of at least one site visit per year by a qualified professional, with annual progress reports submitted to the Shoreline Administrator and all other agencies with jurisdiction; and
    - (4) A contingency plan in case of failure.



## 5.19 Transportation and Parking

### 5.19.1 Policies

- A. **Circulation.** Public agencies and developments should provide circulation facilities including roads, streets, alleys, pedestrian, bicycle, and public transportation facilities, consistent with federal, state, or local standards and sufficient to meet adopted levels of service. (WAC 173-26-241(3)(k) and Growth Management Act RCW 36.70A.070)
- B. **Essential public facilities.** Comprehensive Plans, which include Shoreline Master Programs, may not preclude the siting of essential public facilities, which include state or regional transportation facilities as defined in RCW 47.06.140,
- C. **Minimize land consumption.** When transportation facilities must be located along shorelines efforts should be made to minimize the amount of land consumed. Where feasible, such transportation facilities should be sufficiently set back so that a usable shoreline area remains. Where feasible, roads should not run parallel to shorelines. (1975 SMP Policy 15a)
- D. **Erosion and groundwater.** Roads in shoreline areas should be designed and maintained to prevent erosion and to permit a natural movement of groundwater. (1975 SMP Policy 15b)
- E. **Protect shorelands.** All construction should be designed to protect the adjacent shorelands from erosion, uncontrolled drainage, slides, pollution, and other factors detrimental to the environment. (1975 SMP Policy 15c) Transportation facilities and parking facilities should be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.
- F. **Fit topography.** Road locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary. (1975 SMP Policy 15d)
- G. **Scenic highways and bridges.** Scenic highways and major bridge crossings should have provisions for safe pedestrian and other non-motorized travel. Also, provision should be made for sufficient viewpoints, rest areas and picnic areas along shorelines of the state. (based on 1975 SMP Policy 15e)

- H. **Maintain old highways.** Extensive loops or sections of old highways with high aesthetic quality or multi-use potential should be kept in service. (based on 1975 SMP Policy 15f)
- I. **General maintenance and reconstruction.** Road maintenance and reconstruction should be allowed in accordance with best management practices adopted by the responsible local government and the State of Washington Department of Transportation.
- J. **Trails.** Multi-purpose trails should be encouraged in shoreline jurisdiction consistent with public access policies and regulations in Section 4.4.
- K. **Appropriate bridges and culverts.** Road design for stream crossings should consider appropriate bridge and culvert designs based on federal, state, or local standards, for example, Washington Department of Fish and Wildlife's 2003 *Design of Road Culverts for Fish Passage*. (based on 1975 SMP Policy 15g)
- L. **Coordinate land use and transportation.** Since land use and transportation facilities are so highly interrelated, the plans for each should be closely coordinated and consider shoreline goals, objectives, policies, and standards. (1975 SMP Policy 15h)
- M. **Parking.** Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking facilities should be located as far inland as possible from the OHWM. (1975 SMP Policy 6c)

## **5.19.2 Regulations**

- A. **Roads and railroads limited in shoreline jurisdiction.** Where other options are available and feasible, new roads, road expansions or railroads shall not be built within shoreline jurisdiction. (WAC 173-26-241(3)(k))
- B. **Criteria if roads or railroads are unavoidable.** When roads or road expansions are unavoidable in the shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following: (WAC 173-26-241(3)(k))
  - 1. Minimize possible adverse effects on unique or fragile shoreline features;

2. Maintain no-net-loss of shoreline ecological functions and implement mitigation standards of Section 4.2, Ecological Protection and Critical Areas and Section 4.5, Vegetation Conservation and Shoreline Buffers;
  3. Avoid adverse impacts on existing or planned water-dependent uses; and
  4. Set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal. For the purposes of this Section, disproportionate means the shoreline buffer requirement would add more than 20% to the total project cost.<sup>9</sup>
- C. **Visual access.** Public roads, within shoreline jurisdiction, shall, where possible, provide and maintain visual access to scenic vistas. Visual access may include, but is not limited to, turn-outs, rest areas, and picnic areas. (1975 SMP Section 26(d))
- D. **Shoreline crossings.** Shoreline crossings and culverts shall be designed to minimize impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands. (similar to Chelan County Code 11.78.150)
- E. **Shoreline crossings for private property.** Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property. (1975 SMP Section 26(f))
- F. **Floodway.** See Section 4.3.
- G. **Construction standards.** Construction standards of the appropriate governmental agency, together with SMP standards, shall be conditions for granting shoreline permits. Seasonal work windows may be required based on federal or state requirements, or if the proposal involves crossing shorelines or altering the waterbody. (1975 SMP Section 26(c))
- H. **Trails.** See public access standards in Section 4.4 and 9.4.4 to 14.4.4.

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<sup>9</sup> The 20% figure is based on WSDOT's practices in determining whether sidewalks will be provided with state roads. (pers. com. Paula Reeves, WSDOT, email to WAAPA list serve, April 24, 2009).

- I. **Parking facilities.** Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. For the purposes of this section, authorized means a use or activity included in the use matrix and associated definitions in Chapter 8 and Sections 9.3 to 14.3. Parking that does not require a shoreline location in order to carry out its functions shall: (WAC 173-26-241(3)(k))
  1. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists outside of the shoreline;
  2. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas;
  3. Observe critical area and shoreline buffers; and
  4. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

## **5.20 Utilities**

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

### **5.20.1 Policies**

- A. **Meet demand for utilities.** Utilities should be located to meet the needs of current underserved areas or future growth. (based on 1975 SMP Policy 14d)
- B. **Use existing corridors.** Intensified use of existing utility corridors should be encouraged, as opposed to the addition of new corridors. Efforts should be made to reduce the visual impact of existing utility corridors. (based on 1975 SMP Policy 14c)
- C. **Minimize visual impact.** Whenever utilities must be placed in a shoreline area, the location should be chosen so as to minimize their visual impact. Whenever feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline area. (1975 SMP Policy 14b)
- D. **Upland and underwater utilities.** Upland locations are recommended for utility pipelines and cables. If an underwater location becomes necessary,

easements for the utility must include proper provisions to insure against substantial or irrevocable damage to the waterway or the resident aquatic ecosystems. (1975 SMP Policy 14e)

- E. **Restoration of disturbed areas.** Upon completion of installation or maintenance projects on shorelines, banks should be restored to pre-project configuration where feasible, replanted with suitable plant species, and maintained until the newly planted vegetation is established consistent with Vegetation Conservation policies and standards in Section 4.5. (1975 SMP Policy 14a)

## 5.20.2 Regulations

- A. **Design considerations.** Utility systems are permitted provided such systems: (WAC 173-26-241(3)(l))
  1. Are designed and constructed to meet all adopted engineering standards of the responsible local government; (based on 1975 SMP Section 25.1.10)
  2. Avoid paralleling the shoreline or following a down-valley course near the channel, except where located in an existing road or easement footprint; and
  3. Do not alter processes affecting the rate of channel migration or shoreline erosion.
- B. **Preference – existing footprints.** Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems. (WAC 173-26-241(3)(l))
- C. **Undergrounding required.** All utility systems shall be underground except where environmental or geological conditions makes undergrounding prohibitive; provided that facilities which are infeasible to underground are exempt from undergrounding, including but not limited to electric transmission lines in excess of 15kV and public stormwater facilities, outfalls, and associated structures . (1975 SMP Section 25.1.2)
- D. **Minimum clearing.** Where utility systems must be located in shoreline jurisdiction areas, clearing necessary for installation or maintenance shall be kept to the minimum width necessary to prevent interference by trees and other vegetation with proposed transmission facilities. Impacts

associated with removal or clearing shall be mitigated on the property.  
(1975 SMP Section 25.1.2)

- E. **Restoration of disturbed areas.** Upon completion of utility system installation, or any maintenance project, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting standards of Section 4.5, Vegetation Conservation and Shoreline Buffers and Appendix B, Critical Areas Regulations. (1975 SMP Section 25.1.2)
- F. **Underwater utilities.** If an underwater location is necessary, the design, installation and operation shall minimize impacts to the waterway or the resident aquatic ecosystems. (based on 1975 SMP 25.1.2) Seasonal work windows may be made a condition of approval. Standards of Section 5.8, Dredging and Dredge Material Disposal; Section 4.2, Ecological Protection and Critical Areas; Section 4.5, Vegetation Conservation and Shoreline Buffers (for any aquatic vegetation impacts); and Section 5.2, General Aquatic Shoreline Modification and Use Regulations must be met.
- G. **Nonwater-oriented processing and production facilities.** Nonwater-oriented utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
- H. **No net loss of ecological function.** All utility system projects and maintenance shall be designed, located and installed in a manner which results in no-net-loss of ecological function.

## 6 NONCONFORMING STRUCTURES AND USES (WAC 173-27-080)

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### 6.1 Policies

The following policies on nonconforming structures, uses, and lots are intended to guide the application of responsible local government nonconforming standards:

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

### 6.2 Regulations

The nonconforming standards in Chapters 9 to 14 shall apply to nonconforming uses and structures. These chapters contain non-conforming use and/or structure regulations for each responsible local government.<sup>10</sup>

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<sup>10</sup> When nonconforming use and development standards do not exist in the applicable master program, then the definitions and standards in WAC 173-27-080 apply. The WAC appears to defer to local standards unless they are absent from the SMP, we are proposing to incorporate local standards which may be more or less lenient in Chapters 9 to 14. The revised Chapter 6 includes some guiding policies.





## **7 SHORELINE PERMITS, PROCEDURES AND ADMINISTRATION**

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### **7.1 Roles and Responsibilities (based on local government permit procedures)**

Each responsible local government shall administer this Shoreline Master Program according to the following roles and responsibilities. See Chapters 9-14 of this SMP for the application of these responsibilities to each responsible local government. Any item in conflict between Chapter 7 and Chapters 9-14 shall be resolved in favor of local government-specific requirements in Chapters 9-14.

#### **7.1.1 Shoreline Master Program Administrator**

Each responsible local government shall designate a Shoreline Master Program Administrator. The Shoreline Master Program Administrator or his/her designee is hereby vested with the authority to:

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

**7.1.2 SEPA Official**

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21C. The responsible SEPA official is designated in accordance with each responsible local government's SEPA implementation ordinance.

**7.1.3 Hearing Examiner**

Where a hearing examiner system has been adopted by the responsible local government, the Hearing Examiner shall have the authority to:

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

**7.1.4 Planning Commission**

- A. Planning Commissions, where established, are vested with the responsibility to review the Master Program as part of regular SMP updates required by RCW 90.58.080 as a major element of each responsible local government's planning and regulatory program, and make recommendations for amendments thereof to the Board of County Commissioners or City Councils.
- B. Where a hearing examiner system has not been adopted by a local government, and a Planning Commission has been established, the Planning Commission shall review shoreline permits which are not issued administratively and forward a recommendation to the City Council or Board of County Commissioners.

**7.1.5 City Councils and Board of County Commissioners**

City councils and board of county commissioners are vested with authority to:

- A. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173- 26-100.
- B. Adopt all amendments to this SMP, after consideration of the recommendation of the planning commission, where established.

Substantive amendments shall become effective immediately upon adoption by Ecology.

- C. Where permits are not issued administratively and/or where the jurisdiction has not adopted a hearing examiner system, make final decisions with regard to Shoreline Substantial Development Permits, shoreline variances, shoreline conditional uses, and appeals of administrative decisions.

## **7.2 Interpretation**

See Chapters 9-14 of this SMP for the administrative interpretation procedures of each responsible local government. Each responsible local government shall consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and 173-26 WAC.

## **7.3 Statutory Noticing Requirements**

Applicants shall follow the noticing requirements of the responsible local government. At a minimum, each responsible local government shall provide notice in accordance with WAC 173-27-110, and may provide for additional noticing requirements. Per WAC 173-27-120 each responsible local government shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extensions and bulkheads. See Chapters 9-14 of this SMP for the noticing procedures for each of the responsible local governments.

## **7.4 Application Requirements**

- A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180. In addition, the applicant shall provide the following materials:
  - 1. An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site, to accompany development proposals, provided that proposals for single-family residences shall be exempt from this requirement.
  - 2. Site plan or division of land depicting to scale the location of buildable areas, existing and proposed impervious surfaces, and allowed landscaping and yards. Plans shall show area calculations of each feature.

3. The location of any mapped channel migration zone (see Section 4.3.2, Flood Hazard Reduction), floodplain, and/or floodway boundary on and in the vicinity of the project site. .
4. Where a view analysis is required per WAC 173-27-180 due to location of nearby residential or public properties or designated scenic highways, it shall address the following:
  - a. The analysis shall include vacant existing parcels of record as well as existing structures. Vacant parcels of record shall be assumed to be developed with structures complying with the applicable regulations of the jurisdiction and the maximum height limitation allowed under the SMP.
  - b. The view corridor analysis shall include residential buildings or public properties located outside of the shoreline jurisdiction if it can be clearly demonstrated that the subject property has significant water views.
- B. The Shoreline Master Program Administrator may vary or waive these requirements according to administrative application requirements on a case by case basis. The Shoreline Master Program Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other County or City requirements, and the provisions of this SMP.
- C. See Chapters 9-14 of this SMP for the application requirements in each of the individual jurisdictions.

## **7.5 Shoreline Substantial Development Permits (WAC 173-27-150)**

### **7.5.1 Permit Required**

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

### **7.5.2 Permit Review Criteria**

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

- A. Is the proposal consistent with the policies and procedures of the Act (RCW 90.58)?

- B. Is the proposal consistent with the provisions of Chapter 173-27 WAC, Shoreline Management Permit and Enforcement Procedures?
- C. Is the proposal consistent with this SMP?

### **7.5.3 Conditions of Approval**

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

## **7.6 Exemptions from Shoreline Substantial Development Permits**

(Section based on WAC 173-27-040; RCW 90.58.030 (3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515)

### **7.6.1 Compliance with Applicable Regulations Required**

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

### **7.6.2 Interpretation of Exemptions**

- A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
- B. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.
- C. The burden of proof that a development or use is exempt from the permit process is on the applicant.

- D. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.
- E. Local government may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this SMP. Additionally, nothing shall interfere with each responsible local government's ability to require compliance with all other applicable laws and plans.

### **7.6.3 Exemptions**

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

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred eighteen dollars (\$5,718) or dollar value as amended by the State of Washington Office of Financial Management provided such development does not materially interfere with the normal public use of the water or shorelines of the state.
- B. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.
- C. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family

residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an OHWM has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual OHWM. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife.

- D. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27-040, or this Shoreline Master Program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and this Shoreline Master Program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
- E. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock

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feeding and/or grazing, nor shall it include normal livestock wintering operations;

- F. Construction or modification of navigational aids such as channel markers and anchor buoys;
- G. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. See Chapter 8 for definitions of single-family residence and residential appurtenances.<sup>11</sup> Construction authorized under this exemption shall be located landward of the OHWM;
- H. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if in fresh waters the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this Shoreline Master Program.
- I. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

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<sup>11</sup> The exemption as listed in the WAC indicates: "'Single-family residence' means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An 'appurtenance' is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. *Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program*" Because of this leeway to define local circumstances, we added in Chapter 8 to the definition swimming pools, etc. that the County and City planners have noted have been interpretation questions.



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- J. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- K. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;
- L. Any project with a certification from the governor pursuant to chapter 80.50 RCW, Energy Facilities -Site Locations;
- M. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
  - 1. The activity does not interfere with the normal public use of the surface waters;
  - 2. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
  - 3. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
  - 4. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the responsible local government to ensure that the site is restored to preexisting conditions; and
  - 5. The activity is not subject to the permit requirements of RCW 90.58.550, Oil or natural gas exploration in marine waters;
- N. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;
- O. Watershed restoration projects as defined below. The responsible local government shall review the projects for consistency with the Shoreline

Master Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.<sup>12</sup>

1. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:
  - a. A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
  - b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
  - c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.
2. "Watershed restoration plan" means a plan developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, or Transportation; a federally recognized Indian tribe acting within and pursuant to its authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources,

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<sup>12</sup> These timelines can be put into user's guides or checklists following SMP adoption as they are embedded in the standards and requirements.

character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

- P. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
1. The project has been approved in writing by the State of Washington department of Fish and wildlife;
  2. The project has received hydraulic project approval by the State of Washington Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and
  3. The responsible local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs, as follows.
    - a. In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under P.3.a.i and ii of this subsection:
      - i. A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
        - Elimination of human-made fish passage barriers, including culvert repair and replacement;
        - Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

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

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

- ii. A fish habitat enhancement project must be approved in one of the following ways:
  - By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;
  - By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;
  - By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;
  - Through the review and approval process for the jobs for the environment program;
  - Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
  - Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and

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- Through other formal review and approval processes established by the legislature.
- b. Fish habitat enhancement projects meeting the criteria of P.3.a of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of P.3.a of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).
- c. A hydraulic project approval permit is required for projects that meet the criteria of P.3.a of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.
- d. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.

- e. No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of P.3.a of this subsection and that are reviewed and approved according to the provisions of this section.

#### **7.6.4 Letters of Exemption – Required**

Letters of exemption shall be issued by the responsible local government when an exemption per Section 7.6.3 applies or is required by the provisions of WAC 173-27-050.

### **7.7 Shoreline Conditional Use Permits (WAC 173-27-160)**

#### **7.7.1 Determinations of Conditional Use Permits**

- A. Uses specifically classified or set forth in this Shoreline Master Program as conditional uses shall be subject to review and condition by the Hearing Examiner of the responsible local government and by the Department of Ecology
- B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
- C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

#### **7.7.2 Review Criteria**

- A. **Conditional use criteria.** An applicant proposing a conditional use shall affirmatively demonstrate compliance with review criteria below or as thereafter amended in WAC 173-27-160.
  - 1. Is the proposed use consistent with the policies of RCW 90.58.020 and this SMP?
  - 2. Will the proposed use interfere with the normal public use of public shorelines?
  - 3. Will the proposed use of the site and design of the project be compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this SMP?
  - 4. Will the proposed use cause no significant adverse effects to the shoreline environment in which it is to be located?

5. Will the public interest suffer no substantial detrimental effect?

B. **Additional criteria for exceeding maximum height.** Applicants proposing to exceed maximum height limits shall also affirmatively comply with the following criteria:

1. Does the building or structure impact a substantial number of residences?<sup>13</sup> Are the residences involved on or in an area adjoining the project area? Does the building or structure exceed 35 feet in height? Is there an obstruction of view?
2. Has the applicant demonstrated through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences or from public properties on areas adjoining such shorelines?<sup>14</sup>
3. Has the applicant located and oriented structures on the subject property in a manner that diminishes the potential view impact? For example, side yard setbacks may need to be increased. No side yard setbacks shall be reduced to accommodate the proposed structure.
4. Has the applicant demonstrated extraordinary circumstances?
5. To address “overriding considerations of the public”, has the applicant prepared a cumulative impacts analysis that documents the public benefits served by issuance of a Conditional Use Permit?

C. **Consideration of cumulative impact.** In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

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<sup>13</sup> In *Ecology v. Pacesetter Constr. Co, Inc*, 89 Wn2d 203, 212, 571 P.2d 196 (1977) the Shoreline Hearings Board found RCW 90.58.320 applicable when five residences were affected. In *Grill v. Anacortes*, SHB No. 02-001 (2002) approximately 12 residences were considered substantial for purposes of RCW 90.58.320. In *Alexander* the number of residences impacted was unclear but may have been as few as 18.

<sup>14</sup> 30% is used in both Douglas County SMP and Kennewick SMP. The Shorelines Hearing Board has used different thresholds and found 5-10 percent view impairment from residences does not equate to view obstruction in *Alexander v. Port Angeles*, SHB No. 02-027 and 02-028 (2003); an 18 percent threshold was allowed in *Batchelder v. Seattle*, 77 Wn. App. 154, 890 P.2d 25 (1995).

1. The applicant shall prepare a cumulative impact analysis documenting other properties or uses on the same waterbody that are similarly situated and could request a similar conditional use permit. The responsible local government shall determine whether the additional potential for conditional use permits will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed use, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the conditional use and cumulative potential requests occur.
2. For requests to exceed maximum heights, the analysis shall address such considerations as cumulative view obstruction results of height adjustments (within a 1,000-foot radius) of the proposed development combined with those of other developments that exceed the 35-foot height limitation, environmental benefits (enhancement or restoration), public access/open space benefits, and economic benefits. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.<sup>15</sup>

### **7.7.3 Conditions of Approval**

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

## **7.8 Shoreline Variance Permits (WAC 173-27-170)**

### **7.8.1 Purpose**

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

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<sup>15</sup> Based on Kennewick SMP.



## 7.8.2 Review Criteria

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

- A. **General provisions.** Shoreline Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.
  
- B. **Shoreline variances landward of the OHWM.** Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:
  - 1. Would the strict application of the bulk, dimensional or performance standards set forth in this SMP preclude or significantly interfere with reasonable use of the property?
  - 2. Is the hardship described in B.1 above specifically related to the property, and is the hardship the result of unique conditions such as irregular lot shape, size, or natural features and the application of this SMP, and not, for example, from deed restrictions or the applicant's own actions?
  - 3. Is the design of the project compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will the project design not cause adverse impacts to the shoreline environment?
  - 4. Will the variance constitute a grant of special privilege not enjoyed by the other properties in the area?
  - 5. Is the variance requested the minimum necessary to afford relief?
  - 6. Will the public interest suffer no substantial detrimental effect?
  
- C. **Shoreline variances waterward of OHWM.** Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030 (2)(b), or within any wetland as

defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant demonstrates affirmatively all of the following:

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

D. **Cumulative impacts.** In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. The applicant shall prepare a cumulative impact analysis documenting other properties or uses on the same waterbody that are similarly situated and could request a similar variance. The responsible local government shall determine whether the additional potential for variances will produce substantial adverse effects to the shoreline environment considering the characteristics of the proposed variance request, the ability to achieve no-net-loss of ecological function principles, and capability of accommodating preferred shoreline uses in the future if the variance and cumulative potential requests occur.

### **7.8.3 Conditions of Approval**

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

## **7.9 Permit Conditions**

In granting, revising, or extending a shoreline permit, the responsible local government may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent

with the policy and provisions of the Act and this SMP, as well as the supplemental authority provided in RCW 43.21C, as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or re-evaluation to assure conformance with the Act and this SMP. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded. (based on authority to attach conditions in WAC 173-27-045, 150, 160, 170 and example SMPs)

## 7.10 Duration of Permits (WAC 173-27-090)

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

- A. **General provisions.** The time requirements of this section shall apply to all Shoreline Substantial Development Permits and to any development authorized pursuant to a Shoreline Variance or Shoreline Conditional Use Permit authorized by this Chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this SMP and this chapter, the responsible local government may adopt different time limits from those set forth in Subsections 7.10.B and C of this section as a part of an action on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance.
- B. **Commencement.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, the responsible local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance and to Ecology.
- C. **Commencement.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, the responsible local government may authorize a single extension for a period not to exceed one year based on

reasonable factors, if a request for extension has been filed with a complete extension application submittal before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance and to Ecology.

- D. **Termination.** Authorization to conduct development activities shall terminate five years after the effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance, and to Ecology.
- E. **Effective date.** The effective date of a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance shall be the date of receipt as provided in RCW 90.58.140(6). The permit time periods in subsections B and C of this section do not include the time during which a use or activity was not actually pursued due to pending administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals. The applicant shall be responsible for informing the responsible local government of the pendency of other permit applications filed with agencies other than the responsible local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given by the applicant to the responsible local government prior to the date of the last action by the responsible local government to grant permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the responsible local government, and actions under other responsible local government development regulations, the date of the last action by the responsible local government shall be the effective date.
- F. **Revisions.** Revisions to permits under Section 7.14 may be authorized after original permit authorization has expired, provided that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

- G. **Notification to Ecology.** The responsible local government shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by RCW 90.58.143 as amended shall require a new permit application.

## 7.11 Initiation of Development (WAC 173-27-190)

- A. **Amortization to begin construction.** Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the date of receipt of the decision, except as provided in RCW 90.58.140 (5)(a) and (b). The date of receipt for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of receipt means the date a responsible local government or applicant receives the written decision of Ecology. (Section 36, SB 2935-2)
- B. **Forms.** Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the responsible local government including a combined permit application form. Such forms will be supplied by the responsible local government.
- C. **Data sheet.** A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

## 7.12 Review Process

- A. See Chapters 9-14 of this SMP for the application review process by each responsible local government.
- B. After a Shoreline Conditional Use or Shoreline Variance application has been approved by the responsible local government, Ecology shall review the permit and make its final decision, in accordance with WAC 173-27-200.

## 7.13 Appeals

### 7.13.1 Appeals of Shoreline Administrator Determinations and Decisions

Administrative review decisions by the Administrator, based on a provision of this SMP, may be the subject of an appeal to the Hearing Examiner by any aggrieved person. Such appeals shall be an open record hearing before the Hearing Examiner. Where the responsible local government does not have a hearing examiner system, the City Council or Board of County Commissioners shall hold an open record hearing appeal. Appeals must be submitted within fourteen (14) calendar days after the date of decision or written interpretation together with the applicable appeal fee. Appeals submitted by the applicant or aggrieved person shall contain:

- A. The decision being appealed;
- B. The name and address of the appellant and his/her interest(s) in the application or proposed development;
- C. The specific reasons why the appellant believes the decision to be erroneous, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The appellant shall have the burden of proving the decision is erroneous;
- D. The specific relief sought by the appellant; and
- E. The appeal fee established by the responsible local government.

Per WAC 173-27-120 each responsible local government shall comply with special procedures for limited utility extensions and bulkheads.

### 7.13.2 Appeals to Shorelines Hearings Board

Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of receipt of the final decision by the responsible local government with Ecology as provided for in RCW 90.58.140(6). (RCW 90.58.180)

## 7.14 Amendments to Permits (WAC 173-27-100)

### 7.14.1 Revision – When Required

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

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

### 7.14.2 Determination of Scope and Intent

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

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

- A. No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less;
- B. Ground area coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit;
- C. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this SMP except as authorized under a Shoreline Variance granted as the original permit or a part thereof;
- D. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this SMP;
- E. The use authorized pursuant to the original permit is not changed; and
- F. No adverse environmental impact will be caused by the project revision.

If the sum of the revision and any previously approved revisions are not within the scope and intent of the original permit, local government shall require that the applicant apply for a new permit.

### **7.14.3 Timing of Revision Authorization**

Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with WAC 173-27-100 and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this SMP. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.<sup>16</sup>

### **7.14.4 Filing of Revision**

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

### **7.14.5 Effective Date of Revised Permit**

The revised permit is effective immediately upon final decision by local government or, when appropriate under Subsection 7.14.4 , upon final action by Ecology.

### **7.14.6 Appeal of Revised Permit**

- A. **Filing.** Appeals of a revised permit shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one (21) days from the date of receipt of the responsible local government's action by Ecology or, when

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<sup>16</sup> This language is based on the WAC 173-27 provisions. It would be useful to discuss with Ecology ways in which this language could be clarified in the SMP.



appropriate under Subsections 7.7 and 7.8, the date Ecology's final decision is transmitted to the responsible local government and the applicant.

- B. **Basis of appeals.** Appeals shall be based only upon contentions of noncompliance with the provisions of Subsection 7.14.1.
- C. **Risk.** Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline.
- D. **Scope of decision.** If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.



## 8 DEFINITIONS

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

### A

**ACCESSORY.** Any use or development incidental to and subordinate to a primary use of a shoreline use or development. The terms accessory and appurtenant are synonymous. See also APPURTENANCE, RESIDENTIAL. (example SMPs)

**ACT.** The Washington State Shoreline Management Act, chapter 90.58 RCW. (WAC 173-26-020(1))

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

**ADVERSE IMPACT.** An impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment.

**AGRICULTURAL ACTIVITIES.** Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; and maintaining agricultural lands under production or cultivation. (WAC 173-26-020(3)(a)) See also EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.

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

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

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

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

- D. Roadside stands and on-farm markets for marketing fruit or vegetables.  
(WAC 173-26-020(3)(c))

**AGRICULTURAL LAND.** Areas on which agricultural activities are conducted as of the date of adoption of this SMP pursuant to the State Shoreline Guidelines as evidenced by aerial photography or other documentation. After the effective date of this SMP, land converted to agricultural use is subject to compliance with the requirements herein. (WAC 173-26-020(3)(d))

**AGRICULTURAL PRODUCTS.** Includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty (20) years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, poultry and poultry products, and dairy products. (WAC 173-26-020(3)(b))

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

**AMENDMENT.** A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program. (WAC 173-26-020(4))

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

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

**APPROVAL.** An official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program. (WAC 173-26-020(5))

**APPURTENANCE, RESIDENTIAL.** Improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland and outside their corresponding required buffers. Appurtenances may include, but are not limited to, a garage and/or

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shop; driveway; utilities; water craft storage (upland); swimming pools; hot tubs; sport courts; shoreline stabilization (consistent with WAC 173-27-030(c)); retaining walls; fences; yards; saunas; cabanas; antennas; decks; walkways; and installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. (based on WAC 173-27-040)<sup>17</sup> The terms “appurtenant” and “accessory” are synonymous.

**AQUATIC.** Pertaining to those areas waterward of the OHWM.

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

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

**ARCHAEOLOGICAL RESOURCE/SITE.** A geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains archaeological objects. (State DAHP recommendations)

**ARCHAEOLOGICAL.** Having to do with the scientific study of material remains of past human life and activities. (State DAHP recommendations)

**ARCHAEOLOGIST, PROFESSIONAL.** A person who meets qualification standards promulgated by DAHP and the National Park Service and published in 36 CFR Part 61 and which define minimum education and experience required to perform identification, evaluation, registration and treatment activities for archaeological sites. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the properties involved. (Based on <http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm>)

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<sup>17</sup> The term is defined based on the single family residence exemption in WAC 173-27-040 which indicates: An ‘appurtenance’ is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. *Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program*” Because of this leeway to define local circumstances, we added swimming pools, etc. that the County and City planners have noted have been interpretation questions.

**ASSOCIATED WETLANDS.** Wetlands that are in proximity to tidal waters, lakes, rivers or streams that are subject to the Act and either influence or are influenced by such waters. (WAC 173-22-030(1)) Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

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

**AVERAGE GRADE LEVEL.** The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.” (WAC 173-27-030(3))

**B**

**BEACH.** The zone of unconsolidated material that is moved by waves and wind currents, extending landward to the shoreline.

**BEACH ENHANCEMENT/RESTORATION.** Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable. See also ENHANCEMENT.

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

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

- A. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
- B. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;

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- C. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

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

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

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

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

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

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

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

**BUFFER or SHORELINE BUFFER.** The area adjacent to a shoreline that separates and protects the waterbody from adverse impacts associated with adjacent land uses. It is designed and designated to remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife, to afford limited public access, and to accommodate certain other specified uses that benefit from a



shoreline location. The dimensions of the shoreline buffer are established in the Vegetation Conservation sections of this SMP.

**BUILDING.** Any combination of materials constructed, placed or erected permanently on the ground or attached to something having a permanent location on the ground, for the purpose of shelter, support or enclosure of persons, animals or property, or when supporting any use, occupancy or function. Excluded from this definition are structures waterward of the OHWM, all forms of vehicles even though immobilized, residential fences, retaining walls less than three feet in height, rockeries and similar improvements of a minor nature. The terms building and structure are synonymous.

**BULKHEAD.** A solid wall erected generally parallel to and at or near the OHWM for the purpose of protecting adjacent uplands from waves or current action.

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

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

## **C**

**CHANNEL MIGRATION ZONE (CMZ).** The area along a river or stream within which the channel(s) can reasonably be expected to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. (WAC 173-26-020(6)) It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

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

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

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

**COMMERCIAL DEVELOPMENT.** Those developments whose primary use is for retail, service or other commercial business activities. Included in this

definition are developments such as hotels, motels, bed and breakfast establishments, or other commercial accommodations, shops, restaurants, banks, professional offices, grocery stores, laundromats, recreational vehicle parks, and indoor or intensive outdoor commercial recreation facilities.

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

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

**COMMUNITY PIER.** A private water-related facility designed for moorage of pleasure craft as its primary use that serves a specified residential development of more than four single-family residences or multi-family units. Other water-enjoyment uses, such as fishing or viewing, may occur on community piers.

**CONDITIONAL USE, SHORELINE.** A use, development, or substantial development which is classified as a Conditional Use or is not classified within this SMP. Those activities identified as conditional uses or not classified in this SMP must be treated according to the review criteria established in WAC 173-27-160. (WAC 173-27-030)

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

**CONSERVATION EASEMENT.** A legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

**CONTAMINANT.** Any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels. (WAC 173-200)

COUNTY. Chelan County, Washington.

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

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

CRITICAL HABITAT. Habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in WCC 16.16 with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

**D**

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

DEPARTMENT OF ECOLOGY or ECOLOGY. The Washington State Department of Ecology. (WAC 173-27-030)

DEVELOPMENT. A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. (RCW 90.58.030(3)(d).)

DEVELOPMENT REGULATIONS. The controls placed on development or land uses by local government, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. (WAC 173-26-020(8))

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

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

**DOCUMENT OF RECORD.** The most current shoreline master program officially approved or adopted by rule by the Department of Ecology for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190. (WAC 173-26-020(9))

**DREDGING.** Excavation or displacement of the bottom or shoreline of a waterbody for purposes of flood control, navigation, or restoration. Dredging, as regulated in this SMP under Section 5.8, is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., shoreline crossings, bulkhead replacements).

## **E**

**ECOLOGICAL FUNCTIONS (or SHORELINE FUNCTIONS).** The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. (WAC 173-26-020(11))

**ECOLOGY.** See DEPARTMENT OF ECOLOGY.

**ECOSYSTEM-WIDE PROCESSES.** The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions. (WAC 173-26-020(12))

**EMERGENCY/EMERGENCY CONSTRUCTION.** An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property and facilities from the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, these regulations, or this

SMP, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or seasonal events that can be anticipated and may occur but that are not imminent are not an emergency. (RCW 90.58.030(3eiii))

**ENHANCEMENT.** Alteration of an existing resource to improve or increase its characteristics, functions, or processes without degrading other existing ecological functions. Enhancements are to be distinguished from resource creation or restoration projects. See also BEACH ENHANCEMENT/RESTORATION.

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

**EXCAVATION.** The disturbance, displacement and/or disposal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM.

**EXEMPTION.** Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments are therefore exempt from the Shoreline Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and this SMP. Conditional use and/or variance permits may also still be required even though the activity does not need a Shoreline Substantial Development Permit. (RCW 90.58.030(3e); WAC 173-27-040.)

**EXISTING AND ONGOING AGRICULTURAL ACTIVITIES.** Those activities conducted on lands defined in RCW 36.70A.030 and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that result in the filling of an area or bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a non-agricultural use, or has lain idle for more than five (5) years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition. (term used in WAC 173-26-221(3); defined based on example SMPs and Growth Management Act) See also AGRICULTURAL ACTIVITIES.

## **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

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equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation, and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials. (WAC 173-27-030)

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

- A. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results.
- B. The action provides a reasonable likelihood of achieving its intended purpose. Reasonable means acceptable and according to common sense or normal practice.
- C. The action does not physically preclude achieving the project's primary intended use. (WAC 173-26-020(13))

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

In determining an action's infeasibility, the responsible local government may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. (WAC 173-26-020(13)) See INFEASIBLE

FEED LOT. A confined area or structure for feeding, breeding or holding livestock for eventual sale or slaughter and in which animal waste accumulates faster than it can naturally dissipate without creating a potential for a health hazard, particularly with regard to surface and groundwater; but not including barns, pens or other structures used in a dairy operation or structures on farms holding livestock primarily during winter periods. (Chelan County Code 14.98.020 Definitions)

FILL. The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. (WAC 173-26-020(14))

FLOATING HOMES. Any floating structure that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Floating homes" include house boats, house barges, or any floating

structures that serve primarily as a residence and do not qualify as a vessel. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, nor normally is capable of self propulsion and use as a means of transportation is a floating home, not a vessel. (WAC 332-30-106)

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

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

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

**FLOODPLAIN.** Synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act. (WAC 173-26-020(15))

**FLOODWAY.** The area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. (RCW 90.58.030(2)(g))

**FOREST PRACTICES.** Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, final and intermediate;

precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practices do not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (Chelan County Code 14.20.030)

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

**G**

**GEOTECHNICAL ANALYSIS.** A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes. (WAC 173-26-020(16))

**GEOTECHNICAL REPORT.** See GEOTECHNICAL ANALYSIS.

**GRADE.** See AVERAGE GRADE LEVEL.

**GRADING.** The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land. (WAC 173-26-020(17))

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

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

**GROINS.** A barrier type of structure extending from the backshore or stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials.



**GROUNDWATER.** All water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

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

**GUIDELINES.** Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs. (WAC 173-26-020(18))

## **H**

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

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

**HEIGHT.** The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, unless such appurtenance obstructs the view of a substantial number of adjacent residences. Temporary construction equipment is excluded in this calculation. (WAC 173-27-030)

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

expertise may be needed, depending on the complexity of the task and the nature of the properties involved. (Based on <http://www.dahp.wa.gov/pages/EnvironmentalReview/Consultants.htm>)

**HISTORIC SITE.** Sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the responsible local government. (State DAHP recommendations)

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

**I**

**IMPERVIOUS SURFACE.** A hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. For purposes of determining whether thresholds for application of core elements are exceeded, open, uncovered retention or detention facilities shall not be considered as impervious surfaces. Open, uncovered retention or detention facilities shall be considered impervious surfaces for purposes of runoff modeling. (Chelan County Code 13.18.020 (16))

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

- A. The action cannot be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently not available or unlikely to achieve the intended results.
- B. The action provides is not likely to achieve its intended purpose.
- C. The action precludes achieving the project's primary intended use.

- D. The action's relative public costs and public benefits, considered in the short- and long-term time frames, show the costs far outweigh the benefits.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the responsible local government may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. (WAC 173-26-020(13)) See FEASIBLE.

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

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

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

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

**IN-WATER STRUCTURE.** Structure placed by humans within a stream, river or lake 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.

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

**J**

**JETTIES.** Structures generally built singly or in pairs perpendicular to the shoreline at harbor entrances or river mouths to prevent shoaling and accretion of littoral sand drift. They also protect channels and inlets from crosscurrents and storm waves.

**JOINT-USE DOCKS, PIERS, RAMPS, AND FLOATS.** Those constructed and utilized by more than one waterfront property owner, whether on adjacent lots as single-family residences or as multi-family units, or by a homeowner's association. This does not include marinas or community piers that serve more than four single-family residences or multi-family units.

**JURISDICTION.** The shoreline jurisdiction as established in Chapter 1 of this SMP.

**L**

**LAKE.** A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream. Where the OHWM cannot be found, it shall be the line of mean high water.

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

**LARGE WOODY DEBRIS.** Logs, limbs, or root wads 4 inches or larger in diameter, delivered to waterbodies from adjacent riparian or upslope areas or from upstream areas. (based on a definition in a WDFW document)

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

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

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

**LITTORAL.** Living on, or occurring on, the shore.

**LITTORAL DRIFT.** The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

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

**LOCAL GOVERNMENT.** Any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW. (WAC 173-26-020(19))

## **M**

**MAINTENANCE, NORMAL.** Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**MARINA.** A public or private water-dependent wet moorage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee e.g. yacht club, etc. Dry storage and launching facilities, either boat launch, crane or hoist, may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership. Community piers/docks are not considered marinas.

**MAY.** Refers to actions that are acceptable, provided they conform to the provisions of this master program and the Act. (WAC 173-26-020(21))

**MINERAL EXTRACTION.** The removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this SMP.

**MITIGATION (or MITIGATION SEQUENCING).** The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal.

**MIXED USE.** A combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design.

**MIXED USE COMMERCIAL.** Developments that include water-dependent commercial uses combined with water-related, water-enjoyment uses and/or nonwater-oriented commercial uses. Mixed-use developments can be a tool for water-dependent activities, civic revitalization, and public access to the shoreline. (Example SMPs, Port Townsend)

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**MIXED USE RESIDENTIAL.** Mixed use developments that include water-dependent and water-oriented commercial uses together with single-family or multi-family uses while promoting public access for significant numbers of the public or providing an ecological restoration resulting in a public benefit. This mix of uses is intended to reduce transportation trips, use land efficiently, and provide for waterfront commerce and housing options.

**MODIFICATION.** A change or alteration in existing materials, including structures and plans.

**MODIFICATION, SHORELINE.** Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, dock, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals. (WAC 173-26-020(31))

**MOORAGE FACILITY.** Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys.

**MOORAGE PILE.** A permanent vertical column generally located in open waters, often in close proximity to a dock or pier, to which the vessel is tied to prevent it from excessive movement generated by wind, or wind- or boat-driven waves.

**MULTI-FAMILY DWELLING (OR RESIDENCE).** A building containing two or more dwelling units, including, but not limited to, duplexes, apartments and condominiums.

**MUST.** A mandate; the action is required. (WAC 173-26-020(22)) See SHALL.

## **N**

**NAVIGABLE WATERS.** Navigable waters of the United States are those waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.

**NECESSARY:** A word describing an element that is essential, indispensable or needed to achieve a certain result or effect. (www. Dictionary.com)

**NO NET LOSS.** A public policy goal and requirement to maintain the aggregate total of the County's shoreline ecological functions at its current level of environmental resource productivity. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Inventory and

Analysis Report (INSERT DATE). As a development and/or mitigation standard, no net loss requires that the impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

NONCONFORMING USE OR DEVELOPMENT. A shoreline use or development which was lawfully constructed or established prior to the effective date of the Act (June 1, 1971; RCW 90.58.920) or this SMP (INSERT DATE), or amendments thereto, but which does not conform to present regulations or standards of the SMP.

NONPOINT POLLUTION. Pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

NONWATER-ORIENTED USES. Those uses that are not water-dependent, water-related, or water-enjoyment. (WAC 173-26-020(23))

NORMAL MAINTENANCE. See MAINTENANCE, NORMAL and REPAIR, NORMAL”

NORMAL PROTECTIVE BULKHEAD. Those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. (WAC 173-27-040(2)(c))

NORMAL REPAIR. See REPAIR, NORMAL and MAINTENANCE, NORMAL

NOXIOUS WEEDS. A special sub-class of invasive plant species listed as Class A or B by the Chelan County Noxious Weed Control Board.

**O**

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

ORDINARY HIGH WATER MARK (OHWM). That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in

respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. See RCW 90.58.030(2)(b).

**OVERWATER STRUCTURES.** Any structure located waterward of the OHWM. Common examples include, but are not limited to, residential docks, marinas, and bridges over waterways.

## **P**

**PARKING.** A place where vehicles are temporarily stored while an activity is being conducted. Local parking is located onsite intended to serve and support a primary use(s) of a property. Regional parking is a parking area intended to support a district with multiple uses.

**PARTY OF RECORD.** All persons, agencies, or organizations who have submitted written or verbal comments in response to a notice of application, made oral comments in a formal public hearing conducted on the application, or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

**PERIODIC.** Occurring at regular intervals.

**PERSON.** An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated. (RCW 90.58.030(1d))

**PIER.** Fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also DOCK.

**PRIORITY HABITAT.** A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage. Alternatively, a priority habitat may consist of a specific habitat element (such as talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife (WAC 173-26-020(24)).



**PRIORITY SPECIES.** Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below: (WAC 173-26-020(25))

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

**PROVISIONS.** Policies, regulations, standards, guideline criteria or designations. (WAC 173-26-020(26))

**PUBLIC ACCESS.** The public's ability to reach and use the State's public waters, the water/land interface, and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by means such as scenic roads and overlooks, viewing platform, and other public sites or facilities. (WAC 173-26-221(4) and example SMPs, Whatcom County) See also **COMMUNITY ACCESS.**

**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)

**Q**

**QUALIFIED PROFESSIONAL.** A person with expertise and training appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, hydrology, geomorphology or related field, and at least five years of related work experience. Specific qualified professionals must also meet the following criteria, or any other criteria included in Appendix B, Critical Areas Regulations:

- A. A qualified professional providing a geotechnical analysis as required under Section 5.18 of this Master Program must be a licensed engineer in the State of Washington, with specific training in geology, hydrology and/or geomorphology.
- B. A qualified professional providing a demonstration of need as required under Section 5.18 of this Master Program must have a M.S. or equivalent degree in geology, hydrology, or geomorphology.
- C. A qualified professional for wetlands means a biologist who has a degree in biology, ecology, botany, or a closely related field and a minimum of five (5) years of professional experience in wetland identification and assessment in Eastern Washington.
- D. A qualified professional for habitat conservation areas means a biologist who has a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five (5) years professional experience related to the subject species/habitat type.
- E. A qualified professional for geologically hazardous areas must be an engineer or geologist licensed in the state of Washington. An engineer must be licensed as a civil engineer pursuant to Chapter 18.43 RCW, to qualify. A geologist must be a practicing geologist licensed as a professional geologist pursuant to Chapter 18.22, RCW.
- F. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydro-geologist, geologist, or engineer.

**R**

**RCW.** Revised Code of Washington.

**REASONABLE.** Reasonable means acceptable and according to common sense or normal practice.

**RECREATION.** An experience or activity in which an individual engages for personal enjoyment and satisfaction. Most shore-based outdoor recreation such

as: fishing, hunting, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**RECREATIONAL USES.** Uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body. Examples include, but are not limited to, parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public access facilities, public parks and athletic fields, hunting blinds, and other low-intensity use outdoor recreation areas. Recreational Uses that do not require a shoreline location, nor are related to the water, nor provide significant public access, are considered nonwater-oriented. For example, a recreation use solely offering indoor activities would be considered nonwater-oriented. (based on example SMPs, Whatcom County, Douglas County)

**REPAIR, NORMAL.** To restore a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. See also **MAINTENANCE, NORMAL.**

**RESIDENTIAL USES.** Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, manufactured homes, modular homes, and other structures that serve to house people. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, home occupations, and family day care homes.

**RESPONSIBLE LOCAL GOVERNMENT:** Means Chelan County or the Cities of Cashmere, Chelan, Entiat, Leavenworth, or Wenatchee and those that may incorporate in accordance with applicable State and County laws. Chelan County is the responsible local government within unincorporated territory, including urban growth areas, and the Cities are the responsible local government within their City limits.

**RESTORE (RESTORATION or ECOLOGICAL RESTORATION).**  
Reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions. (WAC 173-26-020(27))

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REVTMENT. Facing of stone, concrete, etc., built to protect a steep slope, cliff, embankment, or shore structure against erosion by waves or currents.

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.

RIPARIAN VEGETATION. Vegetation that tolerates and/or requires moist conditions and periodic free flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

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

## S

SANITARY SEWER. A system designed to accept sewage to be deposited into and carried off by a system of lateral sewers, drains, and pipes to a common point, or points, for transfer to treatment or disposal. (based on WAC 458-20-251)

SEDIMENT. The fine grained material deposited by water or wind.

SEPA (STATE ENVIRONMENTAL POLICY ACT). SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, environmental impact statements (EISs) may be required to be prepared and public comments solicited. (RCW 43.21c and WAC 197-11 guide this process)

SETBACK. The distance between property line and the foundation wall of the primary structure.

SETBACK, SIDE. The distance between side lot line and the foundation wall of the primary structure.

SEWAGE: Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places. (WAC 246-272A-0010)

SHALL. A mandate; the action must be done. (WAC 173-26-020(28)) See also MUST.

SHARED MOORAGE. Dock facilities that would include joint use and/or community dock facilities.

SHORELANDS or SHORELAND AREAS. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology. (RCW 90.58.030(2)(f))

SHORELINE AREAS. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030. (WAC 173-26-020(29))

SHORELINE ENVIRONMENT DESIGNATIONS. The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

SHORELINE FUNCTIONS. See ECOLOGICAL FUNCTIONS.

SHORELINE JURISDICTION. The term describing all of the geographic areas covered by the SMA, related rules and this SMP. Also, such areas within a specified local government's authority under the SMA. See SHORELINES, SHORELINES OF THE STATE, SHORELINES OF STATE-WIDE SIGNIFICANCE and WETLANDS. See also Section 3.1 of this SMP.

SHORELINE MASTER PROGRAM, MASTER PROGRAM, or SMP. A comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations. (WAC 173-26-020(30))

SHORELINE PERMIT. A Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, revision, or Shoreline Variance Permit or any combination thereof.

SHORELINE PROPERTY. An individual property wholly or partially within shoreline jurisdiction.

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**SHORELINE STABILIZATION.** Structural or non-structural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM. Other construction classified as shore defense works include groins, jetties and breakwaters, which are intended to influence wave action, currents and/or the natural transport of sediments along the shoreline.

**SHORELINES HEARINGS BOARD (SHB).** A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**SHORELINES OF STATEWIDE SIGNIFICANCE.** A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special policies apply.

**SHORELINES OF THE STATE.** The total of all “shorelines” and “shorelines of state-wide significance” within the state.

**SHORELINES.** All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on areas of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream areas; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

**SHOULD.** The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this SMP, against taking the action. (WAC 173-26-020(32))

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

**SIGNIFICANT ECOLOGICAL IMPACT.** An effect or consequence of an action if any of the following apply:

- A. The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.
- B. Scientific evidence or objective analysis indicates the action could cause reduction or harm to those ecological functions or ecosystem-wide processes under foreseeable conditions.

- C. Scientific evidence indicates the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

**SIGNIFICANT VEGETATION REMOVAL.** The removal or alteration of trees, shrubs, and/or groundcover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal. (WAC 173-26-020(33))

**SINGLE-FAMILY RESIDENCE (SFR).** A single dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance.

**SMA.** The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

**SMP.** See SHORELINE MASTER PROGRAM.

**SOFT STRUCTURAL SHORELINE STABILIZATION:** Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement.

**STATE MASTER PROGRAM.** The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology. (WAC 173-26-020(34))

**STORM WATER.** That portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

**STORMWATER FACILITY:** A constructed component of a stormwater drainage system designed or constructed to perform a particular function or multiple functions. Stormwater facilities include, but are not limited to: pipes, swales, ditches, culverts, street gutters, detention ponds, retention ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and biofiltration swales. (Eastern Washington Stormwater Management Manual)

**STREAM.** Any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state, including areas in which fish may

spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans. (WAC 220-110-020(105)) A shoreline stream is a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stockwatering channels (WAC 173-22-030(15))

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

**SUBDIVISION.** The division or redivision of land, including short subdivision, for the purpose of sale, lease or conveyance. (based on definition of subdivision and short subdivision in RCW 58.17.020)

**SUBSTANTIAL DEVELOPMENT, SHORELINE.** Any development which meets the criteria of RCW 90.58.030(3)(e). See also **DEVELOPMENT** and **EXEMPTION**.

**SUBSTANTIALLY DEGRADE.** See **SIGNIFICANT ECOLOGICAL IMPACT**

**SURFACE WATER.** All water that exists on the land surface, including streams, lakes or reservoirs, or other bodies of surface water within the boundaries of the state. (based on Chapter 90.44 RCW)

**SWAMP.** A depressed area flooded most of the year to a depth greater than that of a marsh and characterized by areas of open water amid soft, wetland masses vegetated with trees and shrubs. Extensive grass vegetation is not characteristic.

**SWIM FLOAT.** A floating platform designed and intended expressly for facilitating safe swimming. Swim floats are anchored in deeper waters, are not connected to uplands, and are not motorized.

## **T**

**TERRESTRIAL.** Of or relating to land as distinct from air or water.

**TRANSPORTATION FACILITIES.** Roads and railways, related bridges and culverts, trails, fills, embankments, causeways, truck terminals and rail



switchyards, sidings, spurs, and air fields. Not included are, highway rest areas, ship terminals, nor logging roads. Local transportation refers to facilities provide direct access to abutting land and to higher order roads. Regional transportation refers to facilities serving more than one city or community or major destinations.

## U

UNAVOIDABLE. Adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

UPLAND. Generally described as the dry land area above and landward of the OHWM.

UTILITIES. Lines and facilities related to the provision, distribution, collection, transmission or disposal of water, stormwater, sanitary sewage, oil, gas, power, and telephone cable, and includes facilities for the generation of electricity.

- A. "Large facilities" serve more than one community or major attractions. Examples include, but are not limited to, 230 kv power transmission lines, natural gas transmission lines, and regional water storage tanks and reservoirs, regional water transmission lines or regional sewer collectors and interceptors. Large facilities may also include facilities serving an entire community, such as subregional switching stations (one hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.
- B. "Small facilities" serve adjacent properties and include, but are not limited to, power lines not specified under "large facilities," water, sanitary sewer, and storm water facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way. On-site utility features serving primary use such as a water, sewer, or gas line to a residence are accessory utilities and shall be considered part of the primary use.

## V

VARIANCE, SHORELINE. A means to grant relief from the specific bulk, dimensional, or performance standards set forth in this master program; not a means to vary a use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by the Administrator and the Department of Ecology.

VESSEL. A floating structure that is designed primarily for navigation, is normally capable of self propulsion and use as a means of transportation, and meets all applicable laws and regulations pertaining to navigation and safety

equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency. (WAC 332-30-106)

## **W**

WAC. Washington Administrative Code.

WASTE STORAGE AND TREATMENT. Facilities for collecting and treating, as an accessory use only, garbage, solid waste or sewage generated by the development and its users.

WATERBODY. A body of still or flowing water, fresh or marine, bounded by the OHWM.

WATERCRAFT LIFT. An in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A watercraft lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a pier or float, and may be floating or ground-based. Watercraft lifts include, but are not limited to, lifts for motorized boats, kayaks, canoes, jet skis, and float planes. A watercraft lift is different from a hoist or crane used for the launching of vessels.

WATER-DEPENDENT USE. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. (WAC 173-26-020(36)) Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, sewer outfalls, and water diversion facilities, such as agricultural pumphouses. (examples based on Shoreline Inventory and Analysis Report)

WATER-ENJOYMENT USE. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. WAC 173-26-020(37) Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to the shorelines of the State, including public view or fishing platforms; and general water-enjoyment uses may include, but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant

public access or restoration components), and mixed-use commercial/office. (examples based on Shoreline Inventory and Analysis Report)

**WATERFRONT.** A parcel of property with upland characteristics which includes within its boundary a physical interface with the existing shoreline of a body of water. (WAC 332-30-106)

**WATER-ORIENTED USE.** A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses. (WAC 173-26-020(38))

**WATER QUALITY.** The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impervious surfaces and storm water handling practices. Water quantity, for purposes of this master program, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340. (WAC 173-26-020(39))

**WATER-RELATED USE.** A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. WAC 173-26-020(40))

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, log storage, and agriculturally related water transportation systems. (examples based on Shoreline Inventory and Analysis Report)

**WATERSHED.** A geographic region within which water drains into a particular river, stream or body of water.

**WATERSHED RESTORATION PLAN.** A plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation

measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act. (WAC 173-27-040)

**WATERSHED RESTORATION PROJECT.** A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- A. A project that involves less than 10 miles of stream or lake reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- B. A project for the restoration of an eroded or unstable stream bank or lake shore that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of wave energy; or
- C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or in-water habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark of the stream or lake.

**WEIR.** A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

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

from nonwetland areas to mitigate the conversion of wetlands. (RCW 90.58.030(2)(h))

**Z**

ZONING. The system of land use and development regulations and related provisions of Chelan County, the City of Cashmere, the City of Chelan, the City of Entiat, the City of Leavenworth, the City of Wenatchee, and any other future Cities that may incorporate.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.



## **9 CHELAN COUNTY**

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### **9.1 Authority and Purpose**

See Chapter 1 of this SMP.

### **9.2 Goals and Objectives**

See Chapter 2 of this SMP.

### **9.3 Shoreline Jurisdiction and Environment Designations**

#### **9.3.1 Shoreline Jurisdiction**

See Section 3.1 of this SMP.

#### **9.3.2 Environment Designations**

##### **A. Natural**

##### **A.1 Purpose**

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

##### **A.2 Designation Criteria**

A "Natural" environment designation will be assigned to shoreline areas that are ecologically intact and therefore currently perform an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; represent ecosystems and geologic types that are of particular scientific and educational interest; or are unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas, wetlands, and ecologically intact shoreline habitats. Natural environment designations are typically free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies.

**A.3 Management Policies**

Development within the “Natural” environment shall be consistent with the following policies:

- A. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should be prohibited.
- B. The following new uses should not be allowed in the Natural environment:
  - 1. commercial uses;
  - 2. industrial uses;
  - 3. nonwater-oriented recreation; and
  - 4. roads, utility corridors and parking areas that can be located outside of Natural environment designated shorelines.
- C. Access may be permitted for scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational uses that do not impact ecological functions.
- D. Single-family residential development may be allowed as a conditional use within the Natural environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
- E. Commercial forestry may be allowed as a conditional use in the Natural environment provided it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.
- F. Agricultural uses of a very low-intensity nature may be consistent with the Natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
- G. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should be prohibited. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions should not be allowed. That is, each new parcel must be able to



support its intended development without significant ecological impacts to the shoreline ecological functions.

- H. Single-family residential development may be allowed as a conditional use within the Natural environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

**B. Conservancy**

**B.1 Purpose**

The purpose of the “Conservancy” environment is to retain shoreline ecological functions, and processes by avoiding forms of development that would be incompatible with existing functions and processes, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide low-intensity recreational opportunities. Within the Conservancy environment, the overall intensity of development and use should remain low, thereby maintaining most of the area's natural character.

**B.2 Designation Criteria**

A “Conservancy” environment will be applied to shoreline areas where any of the following characteristics apply and would be diminished unless development is strictly controlled:

- A. Ecological functions and important ecological processes have not been substantially degraded by human activities;
- B. The shoreline is supporting human uses that are subject to environmental limitations, such as properties that include or are adjacent to steep banks, floodplains, or channel migration zones;
- C. The shoreline is of high recreational value or with unique historic, cultural or scenic resources; or
- D. The shoreline has low-intensity water-dependent uses or is supporting forestry.

**B.3 Management Policies**

Development within the “Conservancy” environment shall be consistent with the following policies:

- A. Natural ecological processes should be protected, and renewable resources managed so that ecological functions and the resource base are maintained.

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- B. Opportunities for ecological restoration should be pursued, prioritizing those areas with the greatest potential to restore ecosystem-wide processes and functions.
- C. Recreational or scenic values should be protected from incompatible development.
- D. Public access and public recreation objectives should be implemented in the Conservancy environment whenever feasible.
- E. New development should be designed and located to preclude the need for shoreline armoring, vegetation removal, flood control and other shoreline modifications.
- F. Water-oriented uses should be given priority over nonwater-oriented uses. Subject to a Conditional Use Permit, low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- G. Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses in the environment.
- H. Authorized uses should be limited to those compatible with each other and with conservation of shoreline ecological processes and resources.
- I. Allowed new development in the following areas should limit introduction of impervious surfaces to the maximum extent practicable, and take full advantage of new technologies and low-impact development techniques:
  - 1. Lots smaller than 2.5 acres,
  - 2. Lots located inside of LAMIRDs or UGAs, or
  - 3. Lots fronting on Lake Chelan and the Columbia River.

All other new development should limit introduction of impervious surfaces to 10 percent.

**C. Rural**

**C.1 Purpose**

The purpose of the “Rural” environment is to protect shoreline ecological functions in areas having a rural character characterized by open space and low-density development including, but not limited to: residences, agriculture, and active outdoor recreation. Uses should be compatible with the physical capabilities and limitations, natural resources, and shoreline ecological functions and processes of the area.

**C.2 Designation Criteria**

The “Rural” environment is assigned to shoreline areas that possess high capabilities to support or currently do support active agriculture uses, or those areas appropriately planned for or occupied by low-density residential development that may be found in various LAMIRDs. In addition, this designation provides for protection of lands with recreational value or unique historic or cultural resources. Areas where low-intensity outdoor recreation uses or developments would be appropriate and compatible with other uses and the physical environment, and where the shoreline has been developed with low-intensity water-oriented uses are also appropriate for designation as Rural.

**C.3 Management Policies**

Development within the “Rural” environment shall be consistent with the following policies:

- A. Industrial or commercial development should be limited to water-oriented commercial and industrial uses in the limited locations where such uses have been established or at sites in rural communities that possess appropriate shoreline conditions and services sufficient to support such developments.
- B. Nonwater-dependent uses should provide a substantial benefit such as providing public access and/or restoring degraded shorelines.
- C. Recreational access to the shoreline should be encouraged. Recreational facilities should be located and designed to minimize conflicts with agricultural activities.
- D. Agriculture, aquaculture and forestry consistent with rural character and the maintenance of shoreline ecological functions and processes should be encouraged.

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- E. Agricultural practices should be conducted in a manner that will prevent pollution of the water and minimize erosion and sedimentation within the shoreline area.
- F. New development should reflect the character of the surrounding area by limiting residential density, providing permanent open space and maintaining adequate buffers from the shoreline.
- G. Allowed new lots in the following areas should limit introduction of impervious surfaces to the maximum extent practicable, and take full advantage of new technologies and low-impact development techniques:
  - 1. Lots smaller than 2.5 acres,
  - 2. Lots located inside of LAMIRDs or UGAs, or
  - 3. Lots fronting on Lake Chelan and the Columbia River.

All other new lots created after the effective date of this SMP (XX) should limit introduction of impervious surfaces to 10 percent, unless the applicant submits scientific information that indicates a larger impervious surface standard will still maintain the existing hydrologic character.

### **D. Urban**

#### **D.1 Purpose**

The purpose of the “Urban” environment is to accommodate a range and mixture of residential, and water-oriented commercial and institutional uses at moderate intensity and density levels, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Water-dependent utilities and industrial uses are also accommodated. In addition, this designation provides for appropriate physical and visual public access and recreation uses.

#### **D.2 Designation Criteria**

The “Urban” environment is assigned to shoreline areas in UGAs that are not affiliated with a City and to LAMIRDs that are appropriate and planned for a multiplicity of moderate-intensity, water-oriented urban, residential, commercial, office, and industrial land uses. The density and intensity of uses within this environment are balanced with a mix of open space and recreational and cultural facilities.

#### **D.3 Management Policies**

Development within the “Urban” environment shall be consistent with the following policies:

- A. Emphasis should be given to development within already developed areas.
- B. Priority should be given to water-dependent and water-oriented uses over other uses.
- C. Emphasis should be given to developing visual and physical access to the shoreline in the Urban environment.
- D. Industrial and commercial facilities should be designed to permit pedestrian waterfront activities consistent with public safety and security.
- E. Aesthetic considerations should be actively promoted by means of sign control regulations, architectural design standards, planned unit development standards, landscaping requirements and other such means.
- F. Development should not significantly degrade the quality of the environment, including water quality and air quality, nor create conditions which would accentuate erosion, drainage problems or other adverse impacts.
- G. When considering amendments to increase the extent of Urban-designated shorelines, the County should consider the utilization of existing Urban use environments, projections of economic need, and the balance of water-oriented and nonwater-oriented uses.

**E. Aquatic**

**E.1 Purpose**

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

**E.2 Designation Criteria**

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

**E.3 Management Policies**

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

- A. New over-water structures should be prohibited except for water-dependent uses, public access, necessary shoreline crossings, or ecological restoration.

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- B. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
  - C. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.
  - D. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
  - E. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Chapter 4.2, Ecological Protection and Critical Areas.
  - F. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- F. Use Matrix and Development Standards**
- A. Table 9-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process as its primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.
  - B. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
  - C. Any use, development or modification not classified in the Shoreline Master Program in Chapter 9 or listed below shall require a Conditional Use Permit.
  - D. Uses and modifications identified as "Permitted" require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.

- E. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- F. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
- G. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 9-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes.
- H. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.
- I. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.
- J. Where a use or modification may occur in the Aquatic environment as indicated in Table 9-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.
- K. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in

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Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 9-1 indicates “SD/E.” However, if “CU” is listed for the use or modification, that use or modification is not eligible for an exemption.

Table 9-1. Shoreline Use and Modification Matrix for Chelan County.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapters 9 to 14; otherwise prohibited -- = Not applicable	Natural	Conservancy	Rural	Urban	Aquatic
Agriculture	SD/E <sup>3</sup> / X	SD/E	SD/E	SD/E	X
Agricultural-Commercial	X	CU	SD/E	SD/E	X
Aquaculture	CU	SD/E	SD/E	SD/E	SD/E
<b>Boating Facilities: Marinas, Community Piers, and Boat Launches</b>					
Community piers	X	X	SD/E	SD/E	SD/E
Marinas and commercial piers	X	CU	SD/E	SD/E	SD/E
Public boat launch	X	CU	SD/E	SD/E	SD/E
Private commercial boat launch	X	CU	SD/E	SD/E	SD/E
Private community boat launch	X	CU	CU	SD/E	SD/E
Breakwaters/jetties/rock weirs/groins	X	CU	CU	CU	CU <sup>1</sup>
<b>Commercial Uses</b>					
Water-dependent uses	X	CU	SD/E	SD/E	SD/E
Water-related	X	CU	SD/E	SD/E	CU
Water-enjoyment uses	X	CU	SD/E	SD/E	CU
Nonwater-oriented uses	X	CU	SD/E(-)	SD/E(-)	X
Mixed use commercial	X	CU	SD/E(-)	SD/E	X
Mixed use residential	X	CU	SD/E(-)	SD/E(-)	X
<b>Dredging and dredge materials disposal</b>					
Dredging	--	--	--	--	SD/E(-)
In-water disposal	--	--	--	--	CU
Upland disposal outside of channel migration zone (CMZ)	X	SD/E(-)	SD/E(-)	SD/E(-)	--
Upland disposal inside of CMZ	X	CU	CU	CU	--
<b>Fill</b>					
Upland outside of CMZ	CU	SD/E	SD/E	SD/E	--
Upland inside of CMZ	X	CU	CU	SD/E	--
In-water restoration	--	--	--	--	SD/E
In-water non-restoration	--	--	--	--	CU
<b>Forest Practices</b>					
Category I-III	CU(-)	SD/E	SD/E	SD/E	X



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Category IV	X	SD/E	SD/E	SD/E	X
On Shorelines of Statewide Significance	X	SD/E(-)	SD/E(-)	SD/E(-)	X
<b>Industrial Uses</b>					
Water-dependent uses	X	CU	SD/E(-)	SD/E	CU
Water-related uses	X	CU	SD/E(-)	SD/E	X
Nonwater-oriented uses	X	X	SD/E(-)	SD/E(-)	X
<b>Institutional<sup>2</sup></b>					
Water-oriented	CU	SD/E	SD/E	SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	CU(-)	X
In-Water Structures	X	SD/E	SD/E	SD/E	SD/E
<b>Mining</b>					
Upland mining outside of CMZ	X	SD/E	SD/E	SD/E	--
Upland mining inside of CMZ	X	CU	CU	CU	--
In-water mining (commercial)	--	--	--	--	CU
In-water mining (recreational)					SD/E(-)
<b>Private Moorage Facilities</b>					
Buoys	--	--	--	--	SD/E
Piers and docks	X/ SD/E <sup>4</sup>	SD/E	SD/E	SD/E	SD/E
Watercraft lifts	X	SD/E	SD/E	SD/E	SD/E
Private boat launches	X	CU	CU	CU	CU
<b>Recreational Uses<sup>2</sup></b>					
Water-dependent	CU	SD/E	SD/E	SD/E	SD/E
Water-related	CU	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	CU	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	X	CU	CU	CU	X
<b>Residential Uses</b>					
Single-family	CU	SD/E	SD/E	SD/E	X
Multi-family	X	CU	CU	SD/E	X
Over-water	X	X	X	X	X
Floating	--	--	--	--	X
Liveaboards	--	--	--	--	SD/E(-)
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Shoreline Stabilization</b>					
Bioengineering	CU (-)	CU	SD/E	SD/E	SD/E
Hard structural shoreline stabilization	X	CU	CU	SD/E	SD/E
Soft structural shoreline stabilization	X	CU	SD/E	SD/E	SD/E

**DRAFT Chelan County Shoreline Master Program**

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapters 9 to 14; otherwise prohibited -- = Not applicable	<b>Natural</b>	<b>Conservancy</b>	<b>Rural</b>	<b>Urban</b>	<b>Aquatic</b>
Dikes, levees	X	CU	CU	CU	--
<b>Transportation and Parking</b>					
Local	CU	SD/E	SD/E	SD/E	CU
Regional	CU	CU	CU	CU	CU
<b>Utilities</b>					
Small	CU	SD/E	SD/E	SD/E	CU
Large	CU	CU	CU	CU	CU

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

<sup>2</sup> When the use is also commercial, it is also subject to Commercial use standards and matrix allowances.

<sup>3</sup> Exempt activities are permitted. Otherwise new agricultural activities are prohibited.

<sup>4</sup> A pier or dock may only be permitted in the Natural environment when a property's sole access is via the water.

<sup>5</sup> See Section 5.16.2.D for regulations governing replacement of existing floating homes.

Table 9-2. Shoreline Development Standards Matrix for Chelan County.

<b>Standard</b>	<b>Natural</b>	<b>Conservancy</b>	<b>Rural</b>	<b>Urban</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable TBD: To be determined					
Shoreline Buffer– All Uses	See Section 9.4.5 and Appendix B of this SMP				
Shoreline Lot Frontage Minimum – Residential <sup>18</sup>	200	100	75	50	n/a
Side Yard Setback Minimum – Residential <sup>19</sup>	50	20	5	5	n/a

<sup>18</sup> A lot frontage standard that may be appropriate for Natural could range from 100 to 200 feet consistent with rural residential zone lot widths in the County zoning code. Conservancy is sometimes applied in rural areas and sometimes in urban areas. Rural is generally applied outside of urban areas but may include limited areas of more intensive rural development. Urban is generally applied in urban growth areas, but in some cases is applied in limited areas of more intensive rural development. Thus the current zoning lot widths would range greatly. The lowest residential lot widths in urban or limited areas of more intensive rural development appear to be 60 to 70 feet. Thus 60 feet could be the minimum standard for Urban, Rural and Conservancy if keeping consistent with zoning.

<sup>19</sup> The common residential side yard setback is 5 feet in the County code. We may want to increase this in the Natural and Conservancy Environments as they are to have a less intensive character.

Standard	Natural	Conservancy	Rural	Urban	Aquatic
Note: All dimensions are in feet. n/a = not applicable TBD: To be determined Height Limit Maximum <sup>20</sup>	35	35	35	35/60 <sup>1</sup>	35

<sup>1</sup> Development in Rural Industrial zones, Peshastin Commercial and Industrial zones and mixed use commercial or mixed use residential developments may exceed 35 feet where the underlying zones allow for greater heights and provisions of Subsection L are met.

L. **Height exceeding 35 feet in Urban environment:** Development in Rural Industrial zones, Peshastin Commercial and Industrial zones, and mixed use commercial or mixed use residential developments may exceed 35 feet where the underlying zones allow for greater heights and when consistent with the following provisions:

1. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35-feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.
2. Building or structures heights between 35 feet and 60 feet may be allowed as part of a Substantial Development Permit if the following criteria are affirmatively met:
  - a. The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area.
  - b. The development will not cause an obstruction of view from public properties or substantial number of residences. The applicant shall demonstrate through

<sup>20</sup> Generally residential zones have a maximum 35 foot height limit. Public zones, Rural Industrial Zones, Urban Residential 3, and Peshastin commercial and industrial zones can have heights between 45 to 60 feet. A key policy discussion is whether to propose 35 feet within the shoreline jurisdiction and allow increases by Conditional Use Permit; or if the County believes there are overriding considerations and few residences that would be affected by a greater height in that zone. The proposal is for an administrative process subject to criteria. For example, Rural Industrial areas in Malaga are generally situated below the main highway. There is also a railroad between the developable portions of the lots and the Columbia River.

photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

**9.3.3 Shoreline Use Preferences**

See Section 3.3 of this SMP

**9.3.4 Shorelines of Statewide Significance**

See Section 3.4 of this SMP

In Chelan County, all or portions of the following waterbodies are Shorelines of Statewide Significance:

- Chelan River
- Chiwawa River
- Columbia River
- Entiat River
- Icicle Creek
- Little Wenatchee River
- Nason Creek
- Stehekin River
- Wenatchee River
- White River
- Lake Chelan
- Lake Wenatchee

**9.3.5 Unincorporated City-Associated UGAs: Cashmere, Chelan, Entiat, Leavenworth, Wenatchee**

- A. For purposes of effective planning and management of the urban growth areas associated with the Cities of Cashmere, Chelan, Entiat, Leavenworth, and Wenatchee, Chelan County adopts Chapters 10 through 14 of this SMP.
- B. The County has authority to issue shoreline permits in the urban growth areas, as established at the time of adoption of this SMP and illustrated on the Official Shoreline Maps, under Chapters 10 through 14.
- C. Any expansions or alterations in urban growth areas after Ecology adoption will require a future SMP amendment to establish an appropriate environment designation for the area added to or removed from the urban growth area.

## 9.4 General Policies and Regulations

### 9.4.1 Archaeological and Historic Resources

See Section 4.1 of this SMP.

### 9.4.2 Ecological Protection and Critical Areas

See Section 4.2 and Appendix B of this SMP.

### 9.4.3 Flood Hazard Reduction

A. **Policies.** The following policies apply in addition to those of SMP Section 4.3.1:

1. Development in floodplains should be regulated to help mitigate the loss of floodplain storage capacity. (Chelan County Comprehensive Plan Natural Systems Goal 4, Policy 5)
2. Development should be discouraged in areas of natural hazard such as those susceptible to landslide, flood, avalanche, unstable soils and excessive slopes. (Chelan County Comprehensive Plan Natural Systems Goal 4, Policy 8)
3. Development should be discouraged in the channel migration zone areas and existing hazards or problem areas that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams. (based on WAC 173-26-241(4) and County-prepared Wenatchee River CMZ plan)
4. Adopted stormwater and drainage standards and stormwater handling Best Management Practices, as identified in the Stormwater Management Manual for Eastern Washington, should be implemented to protect water resources from impacts caused by development, utilizing, where appropriate: source control, on-site detention, and treatment of stormwater. Where storm drain systems do not exist, storm water shall be disposed of without increasing the rate of run-off. (Chelan County Comprehensive Plan Natural Systems Goal 1, Policy 1)

B. **Regulations.** See Section 4.3.2 and Appendix B of this SMP.

#### 9.4.4 Public Access

The policies of Section 4.4.1 shall apply. In addition the following standards shall apply.

- A. **Public access – when required.** Unless excepted by Subsection C, shoreline public access shall be provided in the following cases:
  - 1. Shoreline public access shall be required for the following shoreline uses and activities:
    - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
    - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
    - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
    - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))
  - 2. Shoreline public access shall be required in shoreline public access gap areas defined in Subsection B for the following types of shoreline land uses and activities:
    - a. Residential subdivisions creating 5 or more lots or multifamily developments of 5 or more units; and/or (WAC 173-26-221(4)(d)(iii))
    - b. Nonwater-oriented commercial uses; and/or (WAC 173-26-241(3)(d))
    - c. Nonwater-oriented industrial uses. (WAC 173-26-241(3)(f))
- B. **Shoreline public access gaps defined.** Shoreline public access gaps are defined as follows for the purposes of Subsection A.2:
  - 1. Wenatchee Census County Subdivision: Area between Rocky Reach Dam and Entiat Census County Subdivision, areas mapped as greater than 1.5 miles from shoreline parks or trails in Appendix G.

2. Leavenworth-Lake Wenatchee Census County Subdivision: Lake Wenatchee northshore, areas mapped as greater than 1.5 miles from shoreline parks or trails in Appendix G.
  3. Malaga Census County Division: Columbia River shoreline, areas mapped as greater than 1.5 miles from shoreline parks or trails in Appendix G.
  4. City of Chelan UGA, northshore: See Section 11.4.4.
- C. **Voluntary public access.** For shoreline developments not subject to Subsections A or B, the County encourages shoreline uses and activities to provide their own shoreline public access or to further the implementation of the Chelan County Shoreline Public Access Plan in Appendix G voluntarily.
- D. **Exceptions.** Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the County at least one of the criteria 1 through 7 are met and that alternatives have been considered per criteria 8. (based on WAC 173-26-221(4)(d)(iii))
1. The development consists of less than five dwellings or lots;
  2. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
  3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  4. Significant environmental impacts will result from the public access that cannot be mitigated;
  5. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  6. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible;
  7. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access

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plans and there are no gaps or enhancements required to be addressed;

8. Except in the case of D1 or D7, all feasible alternatives have been exhausted, including, but not limited to:
  - a. where physical access is not feasible, providing for visual access instead;
  - b. regulating access by such means as limiting hours of use to daylight hours;
  - c. designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
  - d. provision of an off-site public access or a fee-in-lieu pursuant to Subsection F that allows public access at a site physically separated from, but capable of serving the proposal.
  
- E. **Incentives.** The following incentives shall apply to shoreline developments that are required to provide public access according to Subsection A. However, incentives may also be allowed by the County where an applicant voluntarily requests to provide shoreline public access in order to implement some or all of a planned future shoreline public access feature included Appendix G.
  1. In exchange for the shoreline public access listed in Table 9-3, incentives in Table 9-4 shall be allowed. These modifications of standards may be approved with a Shoreline Substantial Development Permit where the modification is consistent with underlying zoning regulations.

Table 9-3. Type of Physical Shoreline Public Access and Qualification for Incentives

Type of Shoreline Public Access	Qualification for Incentives
Type 1 Pedestrian Access: Pedestrian access via perpendicular path of minimum 10-foot width to shoreline	Level 1 Public Access Incentives Level 2: Perpendicular access connects to existing public access feature or easement
Type 2 Pedestrian Access: Pedestrian access via parallel path of minimum 10-foot width	Level 2 Public Access Incentives: a perpendicular access connecting to a parallel access along minimum of 75% of shoreline frontage Level 3 Public Access Incentives: a perpendicular access connecting to a parallel access along 100% of shoreline frontage
Type 3 Pedestrian Access: County street end improvement for shoreline public access	Level 2 Public Access Incentives



Type of Shoreline Public Access	Qualification for Incentives
Type 1 Vehicular Access: Minimal vehicular access to public access facility: e.g. parking at right-of-way and minimum 10-foot-wide pedestrian path to shoreline	Level 2 Public Access Incentives
Type 2 Vehicular Access: Vehicular access corridor and turn around to waterfront recreation and parking	Level 3 Public Access Incentives
Type 3 Vehicular Access: 55' foot corridor width and 45' turning radius at turnaround, and parking, providing access to boat launch	Level 3 Public Access Incentives

Table 9-4. Incentives for Public Access

Incentive Level	Residential Incentive	Commercial or Industrial Incentive
Level 1 Public Access Incentives	For up to one site or lot: <ul style="list-style-type: none"> <li>Reduction of street-facing yard to 15 feet minimum and/or</li> <li>Increase of primary building height by up to 5 feet</li> </ul>	For up to one site or lot: <ul style="list-style-type: none"> <li>Increase of primary building height by up to 5 feet</li> </ul>
Level 2 Public Access Incentives	Level 1 Public Access Incentives plus: <ul style="list-style-type: none"> <li>Reduction of lot width requirements up to 10% for shoreline frontage lots</li> <li>Allowance for 1 additional lot. In order to achieve the additional lot, the applicant may reduce the size of other lots. The modification of other lot sizes shall be minimized to the extent feasible to accommodate the additional lot.</li> <li>Maximum building coverage increase of up to 2.5% for up to 25% of lots</li> </ul>	Level 1 Public Access Incentives plus the following for one site: <ul style="list-style-type: none"> <li>Maximum building coverage increase of up to 5%</li> </ul>
Level 3 Public Access Incentives	Level 1 and Level 2 Public Access Incentives plus the following for one site: <ul style="list-style-type: none"> <li>Maximum height for primary structure may be increased by one story or 10 feet maximum</li> </ul> Type 2 Vehicular Access: <ul style="list-style-type: none"> <li>Reduction of lot width requirements up to 35% for shoreline frontage lots</li> <li>Allowance for 1 additional lot. In order to achieve the additional lot, the applicant may reduce the size of other lots. The modification of other lot sizes shall be minimized to the extent feasible to accommodate the additional lot.</li> <li>Maximum building coverage increase of up to 2.5% for up to 35% of lots</li> <li>Private road access: reduction in required pavement width of up to 4</li> </ul>	Level 1 and Level 2 Public Access Incentives plus the following for one site: <ul style="list-style-type: none"> <li>Maximum height for primary structure may be increased by one story or 15 feet maximum</li> <li>Private road access: reduction in required pavement width of up to 4 feet, or not less than 22 feet of pavement</li> </ul>

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Incentive Level	Residential Incentive	Commercial or Industrial Incentive
	feet, or not less than 22 feet of pavement  Type 3 Vehicular Access: • Same as Type 2 Vehicular Access, except that the percentage of lots that may be approved for reduced lot width, or increased building coverage is equal to 50%	

2. Existing View Protection: In order to protect existing visual access to the water from a substantial number of residences or public properties, the County may require an applicant to prepare a view analysis conducted consistent with Section 7.4. On the basis of the analysis, the County may allow an increase in height above applicable SMP height standards. The height increase may be approved with a Shoreline Substantial Development Permit where the modification is consistent with underlying zoning regulations and if the following criteria are affirmatively met:
    - a. The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area. The applicant shall demonstrate through photographs, videos, photo-based simulations, or computer-generated simulations that the proposed development will obstruct less than 30% of the view of the shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.
    - b. The development will not cause an obstruction of view from public properties.
- F. **Standards.** The following standards shall apply to public access that is required or voluntarily proposed.
1. Types of Access. Applicants required to provide, or voluntarily providing, shoreline public access shall provide for both physical and visual access, unless only visual access is feasible per subsection D.8. Examples are listed below.
    - a. Visual Access. Visual public access may consist of view corridors, viewpoints, or other means of visual approach to public waters.

- b. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, pier, boat launching ramp, dock or pier area, or other area serving as a means of physical approach to public waters.
2. Off-site Public Access or Fee-in-Lieu.
- a. Off-site public access may be permitted by the County where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with County standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.
  - b. Instead of on-site or off-site public access improvements, the County may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the County at a later date or better implements the County Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))
3. Community Access. Community access may be allowed in gap areas defined in Subsection B if there is no existing or planned public access along the shoreline as determined by a review of the Shoreline Public Access Plan in Appendix G. Where provided, community access is subject to all applicable development standards of this section. (WAC 173-26-241(3)(j))

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4. Roads, Streets, and Alleys. The County may not vacate any road, street, or alley abutting a body of water except as provided under RCW 36.87.130 (County).
5. Design Guidelines – Trails. The following design guidelines shall guide public access improvements where they are required or proposed.
  - a. Design Specifications - Trails: Public access easements shall be designed to accommodate the anticipated intensity of use. The minimum width of access easements shall be consistent with Table 9-5, unless the County determines:
    - a reduced width access easement would facilitate redevelopment of existing structures or improvements that encroach into the easement area;
    - undue hardship would result;
    - a reduced width is necessary to avoid significant environmental impact;
    - a reduced width is necessary to allow for safety and security;
    - a reduced width is necessary to allow a water-dependent use to operate; or
    - a reduced width is more compatible with existing public access provided on adjacent or abutting properties or nearby rights of way.
    - a reduced width is consistent with other applicable County regulations regarding walkways, bikeways, or trails and avoids conflicts with these other adopted standards.

Where exceptions are met, a reduced width may be approved provided the width shall be sufficient to provide safe access.

Table 9-5. Standard Trail Widths

Trail Use	Minimum Total Width	Minimum Usable Width
Urban, Paved [1]	Easement: 10 feet	Improved Area: 8 feet
Hiking [2] [3]	Easement/Clearance: Light use: 4 to 6 feet (one-way traffic) Heavy use: 7 to 10 feet (two-way traffic)	Tread Width Light use: 2 to 3 feet (one-way traffic) Heavy use: 4 to 6 feet (two-way traffic)
Bicycling [2] [4]	Easement/Clearance: Mountain bicycle: 6 to 8 feet Touring bicycle: 8 feet (one-way traffic) 10 to 14 feet (two-way traffic)	Mountain bicycle: 2 to 3 feet Touring bicycle: 3 to 6 feet (one-way traffic) 8 feet (two-way traffic)

[1] Based on example SMPs. Douglas County, Whatcom County and the City of Sultan used that standard as a basic requirement.

[2] Based on “Recreational Trail Design and Construction” prepared by the University of Minnesota. Viewed at: <http://www.extension.umn.edu/distribution/naturalresources/DD6371.html#trail1>.

[3] USFS standards for hiking are: Clearance: 2.5-7 feet; Tread: 1.5-4 feet

[4] USFS standards for biking are: Clearance One-Way: 3.5-5.5 feet; Tread One-Way: 1.5-2.5 feet; Clearance Two-Way: 6-8 feet; Tread Two-Way 4-5 feet.

USFS link:

<http://www.fs.fed.us/r8/boone/trailsinit/documents/Trail%20Class%20Design%20parameters%20Trail%20Class%203.pdf>

b. Trail Materials. Trail materials shall be:

- Consistent with the character of the shoreline and the anticipated intensity of use. For example, paved trails in urban areas or gravel or woodchips in non-urban areas;
- Durable and capable of withstanding exposure to the elements;
- Wherever financially feasible and practical, environmentally friendly such as minimizing impervious surfaces through porous pavement, providing native landscaping, etc.

6. Design Specifications – Non-Trail Facilities: The area and dimensions of the non-trail shoreline public access feature shall relate to the likely demand for use of the public access. The applicant shall estimate demand for the facility as part of the shoreline permit application. Public access improvements shall be located and designed to implement the Shoreline Public Access Plan in Appendix G. The County may consult recognized federal, state, or industry standards for non-trail facilities, including but

not limited to WSDOT Design Manual, United States Forest Service standards, standards developed by educational institutions, or others.

7. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to, natural elements such as logs, vegetation, and elevation separations.
8. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
9. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))
10. Conditions of Approval. The County may condition public or community access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include but are not limited to the following:
  - a. Use materials appropriate to the character and environmental condition
  - b. Include barrier free designs to meet Americans with Disabilities Act for public access features in urban areas or LAMIRDs where topography and other conditions allow
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities
  - d. Provide landscaping
  - e. Provide signage with the appropriate State, County or City logo and hours of access
  - f. Establish operation and maintenance responsibilities

- g. Identify dedication and recording requirements
- h. Determine timing of public access installation in relation to the construction of the proposal
- i. Determine ongoing availability to the public or community for which it is designed

**9.4.5 Vegetation Conservation**

The following regulations are supplementary to Section 4.5 of this SMP.

- A. **Shoreline Buffers.** In all shoreline environments, the shoreline buffer shall be the greater of the riparian buffer or the common line setback.
  - 1. The riparian buffers for shoreline waterbodies are dictated by the Riparian Buffers section established in Appendix B, Section 1.100(4)(A) of the County’s critical areas regulations. The standard riparian buffers are indicated in the following table, and are subject to modification pursuant to this Section; Section 4.2.2, Ecological Protection and Critical Areas; and Appendix B, Critical Areas Regulations.
  - 2. Where the common line setback results in a shoreline buffer that is greater than the riparian buffer, the space between the riparian buffer and the common line setback may contain structures and alterations, such as decks, patios, pools, and railings, that are no taller than 36 inches above grade in order to protect views from adjacent properties.

Table 9-6. Riparian Buffers for Chelan County shoreline waterbodies.

<b>Location</b>	<b>High Intensity (feet)</b>	<b>Low Intensity (feet)</b>
Natural Environment	250'	200'
Conservancy Environment	250	200'
Rural Environment	150'	100'
Urban Environment	100	75'
Lower Lake Chelan Basin (all environments)	50'	25'

- B. The shoreline buffers shall apply to all uses and modifications, except as follows:
  - 1. Those uses and modifications listed in Section 4.5, Vegetation Conservation of this SMP.

2. For the use of the property owner, one non-motorized access corridor to the shoreline, including the installation of stairs, paths, and/or landings when necessary to safely reach the shoreline, is allowed in the shoreline buffer when consistent with the following requirements:
  - a. The trail corridor may be no greater than seven (7) feet in width, and landings may not exceed forty-nine (49) square feet;
  - b. The design shall be low-impact and incorporate pervious materials;
  - c. The trail must conform to the natural grade to the extent feasible consistent with safety considerations;
  - d. Erosion control and stormwater management shall be in accord with Section 4.6 of this SMP;
  - e. Minimal disturbance of the shoreline buffer will be required. Where vegetation has been disturbed, re-vegetation with native vegetation is required, and shall be installed within one season of the end of the construction activity; and
  - f. Prior to entering the project area, all equipment shall be checked for leaks and free of any external petroleum products, hydraulic fluid, machinery coolants, dirt, terrestrial or aquatic weeds, weed seeds, and/or any other deleterious materials.
- C. **Avoid, minimize and mitigate impacts.** The design of such uses or activities inside the shoreline buffer allowed under Subsection 9.4.5.A. should avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.

#### **9.4.6 Water Quality, Stormwater and Nonpoint Pollution**

See Section 4.6.

#### **9.4.7 Unincorporated City-Associated UGAs: Cashmere, Chelan, Entiat, Leavenworth, Wenatchee**

- A. For purposes of effective planning and management of the urban growth areas associated with the Cities of Cashmere, Chelan, Entiat,



Leavenworth, and Wenatchee, Chelan County adopts Chapters 10 through 14 of this SMP.

- B. The County has authority to issue shoreline permits in the urban growth areas, as established at the time of adoption of this SMP and illustrated on the Official Shoreline Maps, under Chapters 10 through 14.

## **9.5 Shoreline Modifications and Uses**

### **9.5.1 General Upland Shoreline Modification and Use Regulations**

In addition to Section 5.1 of this SMP, the standards contained in Appendix H shall apply in shoreline jurisdiction.

### **9.5.2 General Aquatic Shoreline Modification and Use Regulations**

See Section 5.2 of this SMP.

### **9.5.3 Agriculture**

- A. **Policies.** In addition to the policies contained in Section 5.3.1 of this SMP, the following policies shall apply:
  - 1. The farmer shall have the right to farm, consistent with appropriate local, State and Federal requirements. (Chelan County Comprehensive Plan Land Use Goal 1, Policy 2)
  - 2. Regulatory opportunities should be developed to allow on-farm enterprises to supplement farm income, improve the efficiency of farming, and provide employment for farm family members. (Chelan County Comprehensive Plan Land Use Goal 1, Policy 9)
  - 3. Land use activities should be sited and designed to avoid and mitigate potential conflicts with adjacent agricultural practices. Non-farm development should provide buffers adjacent to agricultural operations within or adjacent to designated resource lands. (Chelan County Comprehensive Plan Land Use Goal 2, Policy 4)
  - 4. Agriculture and timber lands that are not designated resource lands should be accommodated in the rural setting. The development of rural lands should not preclude the existing use of land for agriculture production. (Chelan County Comprehensive Plan Rural Goal 2, Policy 2)

5. Encourage value-added agricultural activities that strengthen and diversify the agricultural economy. (Chelan County Comprehensive Plan Economic Development Goal 3, Policy 1)
- B. **Regulations.** In addition to the requirements of Section 5.3.2 of this SMP, the following additional requirements shall apply:
1. Agricultural land and activities shall be permitted in accordance with the Chelan County zoning requirements and the provisions of this SMP.
  2. Shoreline development within or adjacent to designated agricultural resource lands in the Chelan County Comprehensive Plan shall be required to provide for mitigation, such as fencing, planting of trees as buffers, landscaping, dust control, and appropriate spraying for pest control or the removal of fruit-bearing trees to address impacts to agricultural operations. (Chelan County Comprehensive Plan Land Use Goal 2, Policy 2)
  3. All shoreline permits for development activities on, or within five hundred (500) feet of, land designated as agricultural lands in the Chelan County Comprehensive Plan shall contain a notice that the subject property is within or near designated long-term commercial agricultural lands on which a variety of commercial activities may occur that are not compatible with development for certain periods of limited duration. (Chelan County Comprehensive Plan Land Use Goal 2, Policy 1; Chelan County Commercial Agriculture Zone 11.30.020 (9))
  4. Agricultural activities shall protect groundwater quality and meet the applicable standards in Chapter 11.82 Aquifer Recharge Areas Overlay District, located in Appendix B.

**9.5.4 Aquaculture**

See Section 5.4 of this SMP.

**9.5.5 Boating Facilities**

See Section 5.5 of this SMP.

**9.5.6 Breakwaters, Jetties, Groins and Weirs**

See Section 5.6 of this SMP.

## 9.5.7 Commercial Development

- A. **Policies.** The following policies shall apply in addition to those in Section 5.7.1 of this SMP:
1. Promote commercial development that meets the needs of County residents and visitors. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 3, Policy 1)
  2. Encourage the strengthening of existing commercial centers rather than the aimless spread of new development. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 1, Policy 2)
  3. In rural areas, provide the opportunity for small-scale recreation or tourist uses, including commercial facilities to serve them, that rely on a rural location and setting but that do not include new residential development. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 1, Policy 5)
  4. Ensure that recreation or tourist uses and commercial facilities that serve them in rural areas are compatible with surrounding land uses. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 1, Policy 5)
  5. When located adjacent to residential zones or in scenic corridors, commercial zoning districts shall restrict outside storage of vehicles or materials to approved screened or enclosed areas. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 2, Policy 1)
  6. Provide adequate setbacks, landscape buffers, and /or screening for commercial development proposals which abut residential and other less intensive land uses. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 2, Policy 3)
  7. Encourage the design of commercial developments which maintain and enhance the aesthetic quality of the County. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 2, Policy 4)
  8. Ensure that adequate off-street parking is provided in conjunction with expansion of or development of additional commercial

activities. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 2, Policy 7)

9. Commercial development should have adequate transportation facilities. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 2, Policy 8)
10. Provide the opportunity for appropriate year-round moorage at Stehekin Landing for commercial and private use. (Chelan County Comprehensive Plan Land Use Element, Commercial Development, Goal 4, Policy 1)

B. **Regulations.** See Section 5.7.2 of this SMP.

### **9.5.8 Dredging and Dredge Material Disposal**

See Section 5.8 of this SMP.

### **9.5.9 Fill**

See Section 5.9 of this SMP

### **9.5.10 Forest Practices**

A. **Policies.** In addition to the policies contained in Section 5.10.1 of this SMP, the following policies shall apply:

1. Forest lands should be conserved for productive economic use by identifying and designating forest resource lands in accordance with where the principle and preferred land use is commercial resource management. (Based on Chelan County Comprehensive Plan Resource Lands Element, Goal 1, Policy 1)
2. The County supports and encourages the maintenance of forest lands in timber and current use property tax classification consistent with RCW 84.28, 84.33, and 84.34. (Chelan County Comprehensive Plan Resource Lands Element, Goal 1, Policy 5)
3. Multiple economic uses of forest resource lands is encouraged for land uses which do not eliminate or limit commercial forest resource management. (Chelan County Comprehensive Plan Resource Lands Element, Goal 1, Policy 1)
4. The County endorses the concept of cooperative resource management between both private and government agencies. (Chelan County Comprehensive Plan Resource Lands Element, Goal 1, Policy 6)

5. Forest management activities that minimize the potential for catastrophic wildfires are encouraged. (Chelan County Comprehensive Plan Resource Lands Element, Goal 1, Policy 7)
6. Land use activities within or adjacent to designated forest resource lands should be sited and designed to avoid and mitigate potential conflicts with commercial forest resource management. (Chelan County Comprehensive Plan Resource Lands Element, Goal 2, Policy 1)
7. Support those uses and buffer areas adjacent to and within designated forest resource lands that minimize conflict with commercial forest management. (Chelan County Comprehensive Plan Resource Lands Element, Goal 2, Policy 2)
8. Encourage all commercial, industrial and residential development to be located within fire districts. (Chelan County Comprehensive Plan Resource Lands Element, Goal 2, Policy 4)
9. Clustering of residential development on adjacent non-resource lands is encouraged and should be sited to address incompatibility issues. The open space and cluster development should help buffer adjacent forest resource land from development. (Chelan County Comprehensive Plan Resource Lands Element, Goal 2, Policy 5)
10. Timber practices that maintain the scenic quality of the Icicle Valley should be encouraged. (Chelan County Comprehensive Plan Resource Lands Element, Goal 3, Policy 1)
11. If responsible silvicultural procedures and management objectives indicate the need for clear cutting in Icicle Valley, such cuts should be carefully designed in the form of small irregular patch cuts, taking advantage of natural variations in the vegetation and topography. (Resource Lands Element, Goal 3, Policy 2)
12. Logging road construction should be minimized as much as possible in Icicle Valley. The visual and environmental impacts of such roads should be carefully evaluated. (Chelan County Comprehensive Plan Resource Lands Element, Goal 3, Policy 3)
13. Water quality impacts to the Icicle Valley Watershed should be addressed. (Chelan County Comprehensive Plan Resource Lands Element, Goal 3, Policy 4)

14. Developments and subdivisions should be designed to take into consideration necessary critical area buffers and vegetation conservation standards in coordination with appropriate wild fire protection standards.

B. **Regulations.** In addition to the standards in SMP Section 5.10.2, the following standards shall apply.

1. Forest practices shall meet all local, state, and federal regulations. Chelan County shall implement Chapter 15.70 Forest Practices Standards of the Chelan County Code.
2. All plats, short plats, binding site plans, development permits and building permits issued for development activities on or within five hundred feet of lands designated as commercial forest resource lands, shall contain a notice that the subject property is within or near designated forest resource lands; on which a variety of commercial activities that may occur that are not compatible with residential development for certain periods of limited duration. (Chelan County Comprehensive Plan Resource Lands Element, Goal 2, Policy 3; and CCC 11.32.020(7))

### **9.5.11 Industry**

A. **Policies.** In addition to the policies in SMP Section 5.11.1, the following shall apply:

1. Allow industrial development in designated industrial areas within urban growth areas and in rural lands. (Chelan County Comprehensive Plan Land Use Element, Goal 1)
2. Ensure that industrial development meets air quality standards and does not significantly affect adjacent property. (Chelan County Comprehensive Plan Land Use Element, Goal 2, Policy 3)
3. Promote the use of innovative development techniques such as industrial parks, where appropriate. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 1, Policy 2)
4. Encourage the development of light industries. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 2, Policy 5)

5. Encourage industrial development to locate in areas where necessary support facilities and services, transportation systems, and compatibility with other land uses are clearly demonstrated. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 1, Policy 4)
6. Promote revitalization within existing developed industrial areas determined to be suitable for continuing use. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 1, Policy 6)
7. Provide adequate setbacks, landscape buffers and/or screening to aid in the transition between industrial development and other land uses. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 2, Policy 3)
8. Potential impacts on nearby properties and public facilities and services should be addressed and mitigated when necessary when evaluating industrial development proposals. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 2, Policy 4)
9. Regulations should be developed to ensure that cottage industries in rural areas are compatible with surrounding land uses. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 2, Policy 6)
10. Ensure that adequate off street parking is provided in conjunction with the expansion or development of additional industrial development. (Chelan County Comprehensive Plan Land Use Element, Industrial Development, Goal 2, Policy 7)

B. **Regulations.** The regulations of SMP Section 5.11.2 shall apply.

### **9.5.12 In-Water Structures**

See Section 5.12 of this SMP.

### **9.5.13 Mining**

See Section 5.13 of this SMP.

### **9.5.14 Private Moorage Facilities**

A. **Regulations.** In addition to the regulations of SMP Section 5.14.2, the following regulations shall apply in Chelan County outside of Cities and their UGAs.

1. Certain deviations from the dimensional standards for width, area and pile size may be approved without a Shoreline Variance provided that the applicant submits copies of all appropriate state and federal permits, and has fully mitigated any impacts associated with the additional deviation. A Shoreline Variance must be obtained for deviations that result in ramp widths wider than 6 feet, pier widths wider than 8 feet, float widths wider than 8 feet, or total pier areas larger than those that would result from approved deviations.
2. **Watercraft lifts and watercraft lift canopies.** Watercraft lifts and canopies may be permitted as an accessory to a residential dock except in the Columbia River. They may only be approved provided that:
  - a. To the maximum extent practicable, all lifts shall be oriented in a north-south direction to minimize shading impacts.
  - b. All lifts are to be placed as far waterward as feasible and safe, preferably in waters 9 feet deep or greater at measured from the OWHM, within the limits of the dimensional standards for docks established in this Section. Watercraft lifts must be located at least 10 feet from side property lines.
  - c. A maximum of three lifts are allowed per single-family residential unit (e.g., nine lifts if dock shared by three property owners). Two of these lifts may be ground-based; all other lifts must be floating or suspended.
  - d. The lifts must comply with all other regulations as stipulated by State and Federal agencies.
  - e. Watercraft lift canopies must be made of translucent material. The lowest edge of the canopy must be at least 8 feet above the OHWM. Only one canopy is allowed per structure, including joint-use structures.
  - f. The lifts and canopies must comply with all other regulations as stipulated by State and Federal agencies.
2. **Private boat launches.** Private boat launches may be allowed as a conditional use provided that the following minimum standards are complied with:



- a. Boat launches must be located in the least sensitive portion of any lot and avoid significant vegetation removal to the maximum extent feasible.
- b. Boat launches must be as narrow as feasible to launch the intended watercraft, and extent into the waterbody no more than necessary.
- c. Use of gravel and cobble materials is preferred over concrete or other solid surface.
- d. Property owners are encouraged to pursue joint-use boat launches rather than a launch serving only one property. A boat launch serving more than four single-family units is regulated under Section 5.5, Boating Facilities.
- e. All impacts must be mitigated consistent with requirements of Section 4.2, Ecological Protection and Critical Areas.

### 9.5.15 Recreational Development

- A. **Policies.** In addition to the policies of SMP Section 5.15, the following policies shall apply:
  1. Evaluate need for waterfront access and waterfront-dependent activities, activity fields (soccer, etc.), special purpose facilities (sky park, skate park, etc.), indoor facilities, community centers, trails, funding mechanisms, construction, and maintenance and operation. (Chelan County Parks and Recreation Plan, Goal PR2, Policy 1)
  2. Encourage public access to shoreline areas in the development and maintenance of park and recreation opportunities, where consistent with the protection of critical areas and private property rights. (Chelan County Parks and Recreation Plan, Goal PR2, Policy 3)
- B. **Regulations.** The regulations of SMP Section 5.15.2 shall apply.

### 9.5.16 Residential Development

- A. **Policies.** In addition to the policies of SMP Section 5.16.1, the following policies shall apply:

1. Provide the opportunity for a mix of housing unit, types and densities to meet the needs of existing and future residents of the County considering appropriate shoreline use environments and Shoreline Management Act use preferences. (Chelan County Comprehensive Plan Land Use Element, Residential Development, Goal 1, Policy 1 and reference to SMA)
2. When consistent with the protection of critical areas, the development, redevelopment and infill of shoreline areas within Urban Growth Areas shall be allowed. (Chelan County Comprehensive Plan Land Use Element, Urban Growth Areas, Goal 1, Policy 11)
3. Allow for the infill, development, and redevelopment of existing intensely developed rural shoreline areas when consistent with the goals and policies of the Chelan County Comprehensive Plan and this SMP. (Chelan County Comprehensive Plan Rural Element, Goal 3, Policy 21)

B. **Regulations.** The regulations of SMP Section 5.16.2 shall apply.

### **9.5.17 Shoreline Habitat and Natural Systems Enhancement Projects**

See Section 5.17 of this SMP.

### **9.5.18 Shoreline Stabilization**

See Section 5.18 of this SMP.

### **9.5.19 Transportation and Parking**

A. **Policies.** The following policies shall apply in addition to the policies contained in SMP Section 5.19.1:

1. Establish an efficient, safe and environmentally sensitive road system that supports desired development patterns, where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction. based in part on Chelan County Comprehensive Plan Transportation Element, Goal 6; WAC 173-26-241(3)(k))
2. Adequate shoreline access should be designed into developments that are provided by tourist and recreation destinations. Circulation plans should include pedestrian, bicycle, and public transportation where appropriate. Circulation planning and

projects should support existing and proposed shoreline uses that are consistent with the master program. (Chelan County Comprehensive Plan Transportation element, Policy 5.1.1; WAC 173-26-241(3)(k))

3. Support improved water transportation to the Stehekin area. (Chelan County Comprehensive Plan Transportation Element, Policy 5.1.2)
4. Protect existing public access to shorelines of the state and seek opportunities to increase public access wherever practical. (Chelan County Comprehensive Plan Transportation Element, Policy 5.1.3)
5. Support cooperative efforts to provide for docking of boats, barges, and float planes at the head of Lake Chelan by common agreement of the National Park Service, the Chelan County Public Utility District, and the Port of Chelan County. (Chelan County Comprehensive Plan Transportation Element, Policy 5.1.4)
6. Transportation improvements should be designed and located to minimize disruptions to critical areas and designated resource lands. (Chelan County Comprehensive Plan Transportation Element, Policy 6.4.2)
7. During project review, consider the need for revegetation of cuts and fills, and lighting or other streetscape amenities. (Chelan County Comprehensive Plan Transportation Element, Policy 6.4.3)
8. Design roads to minimize impacts on hydrologic systems, including surface and groundwater quality. (Chelan County Comprehensive Plan Transportation Element, Policy 6.4.5)
9. Attempt to maximize view potentials when establishing roadway locations and designs. (Chelan County Comprehensive Plan Transportation Element, Policy 6.4.6)
10. Consider the aesthetic character of the project area during roadway project design. (Chelan County Comprehensive Plan Transportation Element, Policy 6.8.2)
11. Consider provisions for non-motorized and pedestrian features in the design of all roadway and bridge projects. (Chelan County Comprehensive Plan Transportation Element, Policy 6.4.7)

12. Establish a system of designated bicycle and trail routes for transportation, scenic, and other recreational uses utilizing existing transportation corridors where safety considerations are not compromised. (Chelan County Comprehensive Plan Transportation Element, Policy 7.2.3)
13. Review natural and scenic areas, specifically for available rights-of-way and joint development opportunities, in order to provide separated non-motorized pathways. (Chelan County Comprehensive Plan Transportation Element, Policy 7.4.1)

B. **Regulations.** The regulations of SMP Section 5.19.2 shall apply. In addition, the requirements in the Roadways and Water Crossings section of Appendix B, Critical Areas Regulations, shall apply.

### **9.5.20 Utilities**

- A. **Policies.** The following policies shall apply in addition to those in SMP Section 5.20.1.
1. Enhance the efficiency and quality of service from utility providers through the coordination of utility, land use, and transportation planning. (Chelan County Comprehensive Plan Utility Element, Goal 1)
  2. Encourage effective and timely coordination of all public and private utility trenching activities. (Chelan County Comprehensive Plan Utility Element, Goal 1, Policy 1)
  3. The consolidation of utility facilities is encouraged where feasible. (Chelan County Comprehensive Plan Utility Element, Goal 1, Policy 3)
  4. Provide for adequate utility right of ways or easements concurrent with development. (Chelan County Comprehensive Plan Utility Element, Goal 1, Policy 6)
  5. Under grounding of all new electrical distribution and communication lines for development is encouraged, where reasonably feasible. (Chelan County Comprehensive Plan Utility Element, Goal 2, Policy 1)
  6. Encourage the under grounding of all existing electrical distribution and communication lines where reasonably feasible.

(Chelan County Comprehensive Plan Utility Element, Goal 2, Policy 2)

7. Provide for adequate buffering and screening of utility facilities where such facilities may have a negative visual impact on surrounding land uses or where public access to such facilities should be limited for safety concerns. (Chelan County Comprehensive Plan Utility Element, Goal 2, Policy 5)
8. Encourage the continued use and maintenance of hydroelectric facilities and the enhancement of hydroelectric power capabilities through system efficiency and the protection of facilities from erosion and flooding. (Chelan County Comprehensive Plan Utility Element, Goal 3, Policy 5)

- B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

#### **9.5.21 Unincorporated City-Associated UGAs: Cashmere, Chelan, Entiat, Leavenworth, Wenatchee**

Chelan County adopts the following sections of this SMP for purposes of managing shorelines contained in each incorporated City's urban growth area.

- A. City of Cashmere: Section 10.3, Shoreline Jurisdiction and Environment Designations; 10.4, General Policies and Regulations; and 10.5, Shoreline Modifications and Uses.
- B. City of Chelan: Section 11.3, Shoreline Jurisdiction and Environment Designations; 11.4, General Policies and Regulations; and 11.5, Shoreline Modifications and Uses.
- C. City of Entiat: Section 12.3, Shoreline Jurisdiction and Environment Designations; 12.4, General Policies and Regulations; and 12.5, Shoreline Modifications and Uses.
- D. City of Leavenworth: Section 13.3, Shoreline Jurisdiction and Environment Designations; 13.4, General Policies and Regulations; and 13.5, Shoreline Modifications and Uses.
- E. City of Wenatchee: Section 14.3, Shoreline Jurisdiction and Environment Designations; 14.4, General Policies and Regulations; and 14.5, Shoreline Modifications and Uses.

### **9.6 Nonconforming Uses and Development Standards**

In addition to Chapter 6 policies, the following standards shall be used:

### **9.6.1 Nonconforming Uses, Lots, and Structures: General Provisions**

- A. Section 9.6 is not intended to encourage the continuance of nonconforming uses.
- B. Uses, lots, and structures rendered nonconforming by the adoption of the SMP may be continued and maintained in reasonable repair, subject to the conditions of Section 9.6.
- C. No use of any structure or premises shall hereafter be commenced, and no structure or part of a structure shall be erected, moved, reconstructed, extended, enlarged, remodeled, repaired, or altered, except in conformity with all current Chelan County development regulations including this SMP.
- D. For the purpose of Section 9.6, remodeling, alterations, or repairs to a nonconforming structure means work that does not exceed eighty percent (80%) of the latest County assessed or appraised value by a state certified/licensed real estate appraiser of the building or structure before the improvements are started.

### **9.6.2 Nonconforming Lots of Record**

- A. In any shoreline use environment, any stated permitted use or structure and accessory use may be erected on preexisting legal lot of record which does not meet the minimum lot size or width requirements of the use environment or zoning district in which it is located.
- B. Setback dimensions and all other applicable County and state requirements not involving lot size or width shall conform to the regulations for the use environment and zoning district in which the lot is situated.

### **9.6.3 Discontinuance of Nonconforming Use**

If a nonconforming use has been discontinued or vacated for a period of twelve consecutive months or greater, the nonconforming status is terminated, and any future use of the land or structures shall be in conformity with the provisions of the use environment and zoning district in which it is located.

### **9.6.4 Destruction and Restoration**

- A. If a nonconforming structure/use is damaged or destroyed by accident, act of nature, or public enemy, it may be permitted to be rebuilt equal to the square footage, and within the same footprint of the damaged or destroyed structures(s), and for the same use.

- B. The structure may be rebuilt in the same location, or at a different location on the site if the new structure meets the current minimum shoreline buffer distance at that different location.
- C. A building permit application must be submitted to the Chelan County department of building/fire safety and planning within one year after the structure(s) has been destroyed. If a building permit application is not submitted within one year, all future structures shall be required to be in conformity with this SMP and all current Chelan County development regulations.

**9.6.5 Maintenance**

A nonconforming structure may be physically maintained and repaired as needed to ensure public safety. All maintenance shall conform to all current development standards and building codes.

**9.6.6 Expansion**

- A. Any expansion shall not increase the existing nonconformity impact on environmental or road conditions. No expansion shall encroach on shoreline buffers or critical areas, unless allowed by the SMP. All expansion shall conform to current County development standards and building codes.
- B. Modification of a legally constructed single-family residence in a shoreline or critical area buffer shall be allowed; provided, that no new construction shall be closer to the OWHM or critical area and does not increase the square footage of primary residence to be modified by more than twenty-five percent of the existing square footage.

### **9.6.7 Completion of a Building/Structure/Activity**

Nothing contained in Section 9.6 shall require any change in plans, construction, alterations, or designated uses of a building/structure specified in a complete application for a development permit submitted prior to the adoption of the SMP or its amendment. Improvements and uses authorized by a recorded motion or resolution of the board of county commissioners, or any permit issued by the County prior to the effective date of the SMP may be developed as set forth in the permit. If the permit becomes invalid prior to development of improvements or uses, the provisions of this SMP shall be in effect on the subject property.

## **9.7 Shoreline Permits, Procedures and Administration**

### **9.7.1 Roles and Responsibilities**

- A. The Shoreline Master Program Administrator in Chelan County is the Planning Director and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act, and have the authority to grant or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and revisions.<sup>21</sup>
- B. In Chelan County, the Hearing Examiner shall have the authority to grant or deny Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- C. The Chelan County Board of County Commissioners shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the Chelan County Planning Commission.
- D. The Chelan County Planning Commission shall make recommendations for amendments of this SMP to the Chelan County Board of County Commissioners.

### **9.7.2 Interpretation**

The Administrator shall provide administrative interpretations in accordance with the Act, the guidelines and with Chelan County Code Section 14.04.020 and Section 7.2 of this SMP.

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<sup>21</sup> Based on County staff direction, the SSDP will now be determined by the Shoreline Administrator and not the Hearing Examiner. This will require a corresponding set of changes to CCC 14.10.



**9.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in Chelan County shall be in accordance with Chelan County Code Chapter 14.08.
- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

**9.7.4 Application Requirements**

- A. Chapter 14.06 of the Chelan County Code provides the minimum application requirements and codifies the form upon which the application must be submitted.
- B. See Section 7.4 for the minimum application requirements listed in WAC 173-27-180 and additional requirements of this SMP.

**9.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.

**9.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

**9.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

**9.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

**9.7.9 Permit Conditions**

See Section 7.9 of this SMP.

**9.7.10 Duration of Permits**

See Section 7.10 of this SMP.

**9.7.11 Initiation of Development**

See Section 7.11 of this SMP.

**9.7.12 Review Process**

- A. The application shall be reviewed by the County in accordance with Chelan County Code Chapter 14.06, 14.08, and 14.10.

- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the County.

### **9.7.13 Appeals**

- A. For administrative appeals, see Chelan County Code Section 14.12.010.
- B. In addition, see Section 7.13 of this SMP.

### **9.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

## **9.8 Definitions**

See Chapter 8 of this SMP. **COMMON LINE SETBACK.** A setback from the ordinary high water mark which is determined by averaging the setbacks of structures existing on waterfront lots which are adjacent to the one upon which the development is to be built.

In the following circumstances, the rear yard setback required in the applicable zoning resolution shall be used in calculating the common line setback for an adjacent lot:

- A. Where no structure exists on a lot(s) adjacent to the proposed development OR
- B. Where a structure exists on a lot(s) adjacent to the proposed development and said structure is more than twenty (20) feet from the ordinary high water mark and has an elevation at average grade that is at least fifteen (15) feet higher or lower than the elevation of the proposed structure at its average grade OR
- C. Where a structure exists on a lot(s) adjacent to the proposed development, and said structure is more than one hundred (100) feet from the ordinary high water mark OR
- D. When the common line setback is calculated to be landward of the front yard setback in the underlying zoning, then the required setback from the ordinary high water mark shall be the same as the setback required in the underlying zoning.

**HIGH INTENSITY.** land uses which are associated with moderate or high levels of human disturbance or substantial wetland or riparian habitat impacts including, but not limited to, medium- and high-density residential, multifamily residential, active recreation, and commercial and industrial land uses.

LANDING. An intermediate platform on a flight of stairs.

LOW INTENSITY. Single-family residential and related accessory structures and home occupational uses, uses that are associated with low levels of human disturbance or low wetland or riparian habitat impacts including ,but not limited to, agriculture or forest management uses.



# 10 CITY OF CASHMERE

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## 10.1 Authority and Purpose

See Chapter 1 of this SMP.

## 10.2 Goals and Objectives

See Chapter 2 of this SMP.

## 10.3 Shoreline Jurisdiction and Environment Designations

### 10.3.1 Shoreline Jurisdiction

The City of Cashmere and its UGA contains two shorelines that fall under shoreline jurisdiction: the Wenatchee River, a shoreline of statewide significance, and Mission Creek. See Section 3.1 of this SMP.

### 10.3.2 Environment Designations

#### A. Urban Conservancy

##### A.1 Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

##### A.2 Designation Criteria

An "Urban Conservancy" environment designation will be assigned to shorelines that are within areas planned for development that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for water-dependent uses other than those uses that support public access and recreation, that are suitable for water-related or water-enjoyment uses; that may be designated as open space, flood plain or other sensitive areas that should not be more intensively developed; and those that retain important ecological functions, even though partially developed;

##### A.3 Management Policies

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

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or

over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

- B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

**B. Shoreline Residential**

**B.1 Purpose**

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

**B.2 Designation Criteria**

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

**B.3 Management Policies**

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

- A. Commercial development should be limited to water-oriented uses and not conflict with the residential character of lands in the "Shoreline Residential" environment.
- B. Water-oriented recreational uses should be allowed.
- C. Adequate land area and services should be provided.
- D. Land division and development should be permitted only 1) when adequate setbacks or buffers are provided to protect ecological functions

and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.

- E. Development standards for setbacks or buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- F. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.
- G. New residential development should be located and designed so that future shoreline stabilization is not required.

**C. High Intensity**

**C.1 Purpose**

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

**C.2 Designation Criteria**

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

**C.3 Management Policies**

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

- A. In the "High Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use

analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).

- B. Developments in the “High Intensity” environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical public access should be required as provided for in Sections 4.4 and 10.4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

**D. Aquatic**

**D.1 Purpose**

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

**D.2 Designation Criteria**

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



**D.3 Management Polices**

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

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

**E. Use Matrix and Development Standards**

- A. Table 10-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and SMP provisions as its primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.
- B. An accessory use shall not be established on a property prior to the development of its primary use.

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- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in the Shoreline Master Program in Chapter 10 or listed below shall require a Conditional Use Permit.
- E. Uses and modifications identified as “Permitted” require either a Shoreline Substantial Development Permit or may be exempt from the requirement to obtain a Shoreline Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 10-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes.
- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.
- J. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions

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apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.

- K. Where a use or modification may occur in the Aquatic environment as indicated in Table 10-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.
  
- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 10-1 indicates "SD/E." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.

Table 10-1. Shoreline Use and Modification Matrix for the City of Cashmere.

The chart is coded according to the following legend. SE/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5 and Chapter 10; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Agriculture	X	SD/E	X	X
Agricultural-Commercial	CU	X	SD/E	X
Aquaculture	X	X	CU	CU
<b>Boating Facilities: Marinas and Boat Launches</b>				
Community piers	X	X	X	X
Marinas and commercial piers	X	X	X	X
Public boat launch	SD/E	CU	SD/E	SD/E
Private commercial boat launch	CU	X	X	CU
Community boat launch	X	CU	X	CU
Breakwaters/jetties/rock weirs/groins	CU	CU	CU	CU <sup>1</sup>
<b>Commercial Uses</b>				
Water-dependent uses	CU	X	SD/E	CU
Water-related	CU	X	SD/E	X
Water-enjoyment uses	CU	X	SD/E	X

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The chart is coded according to the following legend. SE/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5 and Chapter 10; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Nonwater-oriented uses	X	X	SD/E(-)	X
Mixed use commercial	CU	X	SD/E	X
Mixed use residential	X	X	SD/E(-)	X
<b>Dredging and dredge materials disposal</b>				
Dredging	--	--	--	SD/E(-)
In-water disposal	--	--	--	CU(-)
Upland disposal outside of channel migration zone (CMZ)/ floodplain	CU	SD/E	SD/E	--
Upland disposal inside of CMZ/ floodplain	CU	CU	CU	--
<b>Fill</b>				
Upland outside of CMZ/floodplain	SD/E	SD/E	SD/E	--
Upland inside of CMZ/floodplain	CU	CU	CU	--
In-water restoration	--	--	--	SD/E
In-water non-restoration	--	--	--	CU
Forest Practices	X	X	X	X
<b>Industrial Uses</b>				
Water-dependent uses	CU	X	SD/E	CU
Water-related uses	CU	X	SD/E	X
Nonwater-oriented uses	X	X	SD/E(-)	X
<b>Institutional<sup>2</sup></b>				
Water-oriented	SD/E	SD/E	SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	X
In-Water Structures	SD/E	SD/E	SD/E	SD/E
<b>Mining</b>				
Upland mining outside of CMZ/ floodplain	X	X	SD/E	--
Upland mining inside of CMZ/ floodplain	X	X	CU	--
In-water mining (commercial)	--	--	--	CU
In-water mining (recreational)	--	--	--	SD/E(-)
Private Moorage or Boat Launch Facilities	X	X	X	X
<b>Recreational Uses<sup>2</sup></b>				
Water-dependent	SD/E	SD/E	SD/E	SD/E
Water-related	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	CU	CU	CU	X
<b>Residential Uses</b>				
Single-family	SD/E	SD/E	SD/E	X

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The chart is coded according to the following legend. SE/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5 and Chapter 10; otherwise prohibited -- = Not applicable	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>High Intensity</b>	<b>Aquatic</b>	
	Multi-family	X	SD/E	SD/E	X
	Over-water	X	X	X	X
	Floating	--	--	--	X
	Liveaboards	--	--	--	X
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	
Shoreline Stabilization					
Bioengineering	SD/E	SD/E	SD/E	SD/E	
Hard structural shoreline stabilization	CU	SD/E(-)	CU	SD/E	
Soft structural shoreline stabilization	SD/E	SD/E	SD/E	SD/E	
Dikes, levees	CU	CU	CU	--	
Transportation and Parking					
Local	SD/E(-)	SD/E(-)	SD/E(-)	CU	
Regional	CU	CU	CU	CU	
Utilities					
Small	SD/E	SD/E	SD/E	CU	
Large	CU	CU	CU	CU	

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

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

Table 10-2. Shoreline Development Standards Matrix for the City of Cashmere.

<b>Standard</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>High Intensity</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable TBD = To Be Determined				
Shoreline Buffer – All Uses	See Section 10.4.5 of this SMP.			
Shoreline Lot Frontage Minimum – Residential <sup>22</sup>	50	40	40	n/a

<sup>22</sup> The City zoning code does not appear to regulate lot width. A potential minimum shoreline frontage for new lots could be 40 feet which would be equal to two side setbacks of 5 feet and a structure 30 feet wide. Based on City staff input, most of the lot widths in the City, particularly the older plats, seem to be around the 40'-50' width.

<b>Standard</b>  Note: All dimensions are in feet. n/a = not applicable TBD = To Be Determined	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Side Yard Setback Minimum – Residential	5	5	0	n/a
Height Limit Maximum <sup>23</sup>	35	30	35	35

### 10.3.3 Shoreline Use Preferences

See Section 3.3 of this SMP.

### 10.3.4 Shorelines of Statewide Significance

See Section 3.4 of this SMP.

In the City of Cashmere, the Wenatchee River is a Shoreline of Statewide Significance.

## 10.4 General Policies and Regulations

### 10.4.1 Archaeological and Historic Resources

See Section 4.1 of this SMP.

### 10.4.2 Ecological Protection and Critical Areas

See Section 4.2 and Appendix B of this SMP.

### 10.4.3 Flood Hazard Reduction

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.3.1:

1. Shoreline developments should incorporate considerations for surface water runoff, floodplain issues, and maintaining water quality during the design and construction of new developments, including roads and utility corridors. (based on Comprehensive Plan Critical Areas Policies)
2. Land use practices that may impede the flow of floodwater or cause danger to life or property should not be allowed. This includes, but is not limited to, filling, dumping, storage of

<sup>23</sup> The City's maximum residential height is 30 feet. The City's maximum non-residential height appears to be 40 feet. For the shoreline jurisdiction, we recommend 30 feet in residential areas and 35 feet in non-residential areas.

materials, structures, buildings, and any other works which, when acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows. Activities in flood hazard areas are subject to City critical areas and flood hazard regulations. (based on Comprehensive Plan Critical Areas Policies)

3. The City should permit and encourage land uses compatible with the preservation of the natural vegetation which is a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth. (Comprehensive Plan Critical Areas Policies)
4. Frequently flooded areas, which include the 100-year floodplain, should be allocated the uses for which they are best suited and discourage obstructions to flood-flows and uses that pollute or deteriorate natural waters and watercourses. (Comprehensive Plan Critical Areas Policies)
5. The City should promote the preservation of the remaining, significant natural drainages that are an important part of the stormwater drainage system. (Comprehensive Plan Critical Areas Policies)
6. Development within the floodway portion of a floodplain that would alter the course and flow of floodwaters and result in damages to other property owners or natural areas should be prohibited. (Comprehensive Plan Critical Areas Policies)
7. Flood damage protection measures should be incorporated in the design of new developments located in regulatory floodplains. (Comprehensive Plan Critical Areas Policies)
8. The installation of new or replacement public facilities, utilities or other public improvements within designated floodplains should utilize prevailing flood damage prevention methods, and where feasible give preference to nonstructural flood hazard reduction measures over structural measures. (Comprehensive Plan Critical Areas Policies)
9. New development which has the potential to alter and/or obstruct frequently flooded areas should be conditioned to avoid unacceptable increases in flood elevations, to reduce flood damage, and allow proper conveyance of flood flows. (Comprehensive Plan Critical Areas Policies)

10. The City should require new development to collect, treat and dispose of its stormwater runoff in an engineered system on-site, or in a private or public system capable of carrying and disposing of the additional volumes. (Comprehensive Plan Critical Areas Policies)
  11. Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams. (WAC 173-26-221(3)(b)(iv))
  12. Development proposals and restoration projects should evaluate alternative flood control measures, and are encouraged to:
    - a. plan for and facilitate returning river and stream corridors to more natural hydrological conditions, (WAC 173-26-221(3)(b)(v))
    - b. recognize that seasonal flooding is an essential natural process, (WAC 173-26-221(3)(b)(v))
    - c. consider removal or relocation of structures in flood prone areas. (WAC 173-26-221(3)(b)(vi))
- B. **Regulations.** See SMP Section 4.3.2 and Appendix B of this SMP.

#### **10.4.4 Public Access**

- A. **Policies.** The following policies re supplementary to Section 4.4.1 of this SMP.
1. Develop a well-maintained, interconnected system of multi-functional parks, trails, recreation facilities and open spaces that is attractive, safe and available to all segments of the City's population, and supports the community's established neighborhoods and small town atmosphere. (PRG 1.0)
  2. Ensure that new park and recreational services are provided concurrent with new development. (PRG 2.0)
  3. All new development shall provide funds or park lands for concurrent park development and maintenance. (PRP 2.1)
  4. Require on-site (or nearby off-site) development of recreation facilities or appropriate and usable park land in conjunction with the approval of any development project. (PRP 2.3)



5. Require development projects along designated trail routes to be designed to incorporate the trail as part of the project. (PRP 2.4)
6. Develop, operate and maintain parks and recreation facilities in a manner that is responsive to the site, and balances the needs of the community with available funding. (PRG 3.0)
7. Cooperate with other jurisdictions, public agencies, and the private sector to provide park, open space and recreation facilities. (PRG 4.0)
8. Protect and preserve as open space areas that: are ecologically significant sensitive areas; provide significant opportunities for restoration buffers between uses and link open space; provide trails and/or wildlife corridors; or enhance fish habitat. (PRG 5.0)

**B. Regulations.** The following standards are supplementary to Section 4.4.2 of this SMP.

1. The City's shoreline public access plan provides for a connected network of parks and open space connected by a trail. The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with this Shoreline Public Access Plan in Appendix G.
2. When Public Access is Required: Shoreline public access shall be required for the following shoreline uses and activities:
  - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
  - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
  - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
  - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))

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3. Private development: Shoreline development along designated trail routes per Appendix G shall be designed to incorporate designated trail routes as part of the project.
4. Exceptions: Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria a through g are met and that alternatives have been considered per criteria h. (based on WAC 173-26-221(4)(d)(iii))
  - a. The development consists of less than five dwellings or lots;
  - b. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
  - c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - d. Significant environmental impacts will result from the public access that cannot be mitigated;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  - f. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible; or
  - g. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;
  - h. Except in the case of 4a and 4g, all feasible alternatives have been exhausted, including, but not limited to:
    - (1) where physical access is not feasible, providing for visual access instead;

- (2) regulating access by such means as limiting hours of use to daylight hours;
  - (3) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
  - (4) provision of an off-site public access or a fee-in-lieu pursuant to Subsection 5 that allows public access at a site physically separated from, but capable of serving the proposal.
5. Off-site Public Access or Fee-in-Lieu.
  - a. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.
  - b. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))
6. Trail Standards. The Riverfront Trail standards shall be consistent with the City's Comprehensive Plan and Parks and Recreation Plan. Trail components include, but are not limited to:  
walking/biking path 10-12 feet wide, landscaping minimum 5 feet

wide, and equestrian trail minimum 3 feet wide with 10 feet vertical clearance, with adequate easements to adjust for topography.

7. Design Standards – Non-Trail Facilities. The City may consult recognized federal, state, or industry standards for non-trail facilities.
8. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
9. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
10. Roads, Streets, and Alleys. The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
11. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))
12. Conditions of Approval. The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include but are not limited to the following:
  - a. Use materials appropriate to the character and environmental condition
  - b. Include barrier free designs to meet Americans with Disabilities Act
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities
  - d. Provide landscaping

- e. Provide signage with the appropriate State, County or City logo and hours of access
- f. Establish operation and maintenance responsibilities
- g. Identify dedication and recording requirements
- h. Determine timing of public access installation in relation to the construction of the proposal
- i. Determine ongoing availability to the public or community for which it is designed

**10.4.5 Vegetation Conservation**

The following regulations are supplementary to Section 4.5.2 of this SMP.

- A. **Buffers.** Table 10-3 establishes buffers to be measured from the OHWM for uses and developments in each environment designation.

Table 10-3. Shoreline Buffers by Environment Designation for the City of Cashmere.

Environment Designation	Standard Buffer	Standard Reduced Buffer	Maximum Reduced Buffer
Urban Conservancy	150'	112.5'	75'
Shoreline Residential	50'	37.5'	25'
High Intensity	80'	60'	40'

Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding buffer reductions.

- 1. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
  - a. Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved and either criteria 1.b or 1.c is applicable.
  - b. A mitigation plan pursuant to Subsection A.4 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or

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- c. Conditions unique to the site, including existing uses, developments, or topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.
2. Maximum Buffer Reduction.
    - a. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding fifty (50) percent may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:
      - (1) A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the standard reduced buffer, and the proposed reduced buffer.
      - (2). A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.
      - (3). A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.
      - (4) A mitigation plan as outlined in Section A.4 below.
    - b. The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:

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- (1) Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved.
  - (2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.
  - (3) The applicant’s mitigation plan demonstrates that the selected mitigation options in Subsection A.4 achieve an equal or greater protection of ecological functions than the standard buffer.
3. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.
  4. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the he applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:

<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
<b>Water Related Conditions or Actions</b>		
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline	35 percent

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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
	stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent
4	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
5	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft <sup>2</sup> ), or restore aquatic substrate (minimum 250 ft <sup>2</sup> ) depending on the site's particular ecological condition and needs.	10 percent
6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
<b>Upland Related Conditions or Actions</b>		
7	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i> .	20 percent



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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
9	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

- a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart below as satisfying the requirements of this section, provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement noted in c. below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.
  - b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
  - c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.
  - d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
5. The design of uses or activities under Subsection 10.4.5.A. shall avoid existing vegetation to the maximum extent practicable, and

any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.

6. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water-dependent or public access uses.

B. Additional Standards.

1. Landscape Standard for New Development, or Expansion. Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:
  - a. The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average fifty (50) percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.
  - b. Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat functions. At least eight (8) trees per 100 linear feet of shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County, and appropriate for the site's particular soil, exposure, and hydrologic conditions.

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- c. Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B).
  
- d. Alternative Compliance with Landscape Standard.  
Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following and provides an alternative vegetation plan:
  - (1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
  - (2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
  - (3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area between the primary structure and the OHWM is encumbered by a utility or public access easement, or other constraining factors; or
  - (4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose

and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

These provisions do not apply to those portions of public recreational water-oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water-oriented uses and water-dependent uses. Any impacts to ecological functions must be mitigated.

2. Private physical shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of six (6) feet wide, through the remaining 25 percent of the shoreline buffer area. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.
- C. **Mitigation.** All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.
  - D. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:

1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
2. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on-site.
3. If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1 <sup>3</sup>/<sub>4</sub>) caliper for deciduous or broad-leaf evergreen tree.
4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.

#### **10.4.6 Water Quality, Stormwater and Nonpoint Pollution**

- A. **Policies.** The following policies shall apply in addition to those of Section 4.6.1 of this SMP.
  1. Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- B. **Regulations.** The following regulations shall apply in addition to those of SMP Section 4.6.2 of this SMP.
  1. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

2. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

## 10.5 Shoreline Modifications and Uses

### 10.5.1 General Upland Shoreline Modification and Use Regulations

See Section 5.1 of this SMP. Additionally, sign provisions in Appendix H apply.

### 10.5.2 General Aquatic Shoreline Modification and Use Regulations

See Section 5.2 of this SMP.

### 10.5.3 Agriculture

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.3.1.
  1. In the suburban residential areas, allow agricultural activities, including the keeping and raising of livestock and/or poultry, provided those activities are conducted according to accepted best management practices and in compliance with any applicable regulations, including the City's provisions governing the keeping and raising of livestock and poultry. (Comprehensive Plan Land Use Residential Policy)
  2. Recognize that agricultural lands within the city limits and urban growth area will eventually be converted to another land use. (Comprehensive Plan Land Use Resources Lands Policy)
  3. Recognize that agricultural lands within an urban growth area are still viable economic operations. In order to provide for public health and safety, while allowing common commercial agricultural/orchard management practices to continue, establish guidelines for new developments adjacent to agricultural lands. (Comprehensive Plan Land Use Resources Lands Policy)
  4. Agricultural activities, including commercial and hobby farms, are encouraged to incorporate best management practices concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, and stream corridor management. (Comprehensive Plan Critical Areas Policies)

5. Encourage and develop a plan to promote or assist the city's agricultural environment through agricultural tourism.  
(Comprehensive Plan Economic Policy)

- B. **Regulations.** Agricultural uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including, but not limited to, SMP Sections 5.3.2 and 10.3.

#### **10.5.4 Aquaculture**

See Section 5.4 of this SMP.

#### **10.5.5 Boating Facilities**

See Section 5.5 of this SMP.

#### **10.5.6 Breakwaters, Jetties, Groins and Weirs**

See Section 5.6 of this SMP.

#### **10.5.7 Commercial Development**

- A. **Policies.** The following policies shall apply in addition to those in Section 5.7.1.
  1. Promote the development of incentive programs that reward the continued use, maintenance, development and revitalization of land and buildings within established commercial areas.  
(Comprehensive Plan Commercial Goals and Policies)
  2. Development of additional resort, motel, restaurant and related tourist facilities should be encouraged. (Comprehensive Plan Commercial Goals and Policies)
  3. Encourage new businesses that will, through excellence of design and the nature of the use, provide long-term benefit to the people of Cashmere. (Comprehensive Plan Commercial Goals and Policies)
  4. Encourage adequate vehicular and pedestrian circulation patterns in commercial areas and provide linkages to other land use activities where practical. (Comprehensive Plan Commercial Goals and Policies)
  5. Develop adequate standards for off-street parking sensitive to the diverse needs of commercial uses. (Comprehensive Plan Commercial Goals and Policies)

6. Encourage landscaping that provides unity to commercial developments, and which screens or softens parking lots and unsightly areas, particularly in the transition areas between commercial and residential land uses. (Comprehensive Plan Commercial Goals and Policies)
  7. On-site commercial preparation such as street access, parking, surface drainage, utilities, water systems and sewer systems, should be provided by private developers or appropriate public/private partnerships. (Comprehensive Plan Commercial Goals and Policies)
- B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.7.2 and 10.3.

### **10.5.8 Dredging and Dredge Material Disposal**

See Section 5.8 of this SMP.

### **10.5.9 Fill**

See Section 5.9 of this SMP.

### **10.5.10 Forest Practices**

See Section 5.10 of this SMP.

### **10.5.11 Industry**

- A. **Policies.**
1. Promote retention, expansion, and revitalization of existing industrial areas that are desirable for continued use. (Comprehensive Plan Industrial Goals and Policies)
  2. In the Mixed Commercial/Light Industrial areas allow light manufacturing activities and business office park uses. Require standards that place service entrances and storage facilities in the areas least visible to the public and any adjacent, less intense land uses. (Comprehensive Plan Commercial and Industrial Goals and Policies)
  3. Locate industrial activities where roads have capacity to provide for the heavy demands of industrial traffic. (Comprehensive Plan Industrial Goals and Policies)



4. Industrial site planning should internalize negative effects by incorporating greenbelt buffers; landscaping; adequate utilities; noise, air and water pollution control devices; and attractive fencing or similar measures. (Comprehensive Plan Industrial Goals and Policies)
5. Encourage clean industrial development that is compatible with the quality of life in Cashmere and with the natural environment (air, water, noise and visual). (Comprehensive Plan Industrial Goals and Policies)
6. Protect the industrial land base from the intrusion of non-industrial activities that will hamper industrial operations or divide up the land base, rendering site assembly difficult. With the exception of housing for caretakers and/or security personnel, residential uses are prohibited in industrial areas. (Comprehensive Plan Industrial Goals and Policies)
7. Encourage variety and innovative design in industrial site development, and promote an attractive, high quality environment for industrial activities through good landscaping, parking and building designs, particularly where land uses of distinct character or intensity adjoin. (Industrial Goals and Policies)
8. Integrate parking area design with landscape design in a way that reduces the visual impact of impervious surfaces and provides screening of parking from public view. Design features should include provisions for landscaping adjacent to buildings and walkways, and for parking areas to be located behind buildings and away from areas of high public visibility. (Comprehensive Plan Industrial Goals and Policies)
9. Promote revitalization of existing vacant industrial sites, and vacant structures. (Comprehensive Plan Economic Development Goals and Policies)

- B. **Regulations.** Industrial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.11.2 and 10.3.

### 10.5.12 In-Water Structures

See Section 5.12 of this SMP.

### **10.5.13 Mining**

See Section 5.13 of this SMP.

### **10.5.14 Private Moorage Facilities**

Docks and private boat launches are prohibited in the City of Cashmere and its UGA.

### **10.5.15 Recreational Development**

See Sections 5.15 and 10.4.4 of this SMP.

### **10.5.16 Residential Development**

#### **A. Policies.**

1. Provide for the orderly development of residential neighborhoods by controlling the availability of city utilities, services and roads to encourage residential development to occur at appropriate densities. (Comprehensive Plan Residential Goal)
2. Offer a variety of housing densities throughout the community, and implement development criteria to ensure compatibility within and among different neighborhoods. (Comprehensive Plan Residential Policy)
3. Within residential areas, allow for day care facilities, schools, parks, churches and church-sponsored youth centers, and other recreational, educational and/or religious activities to occur only after an appropriate site-specific public review, such as a conditional use permit process, to determine and address impacts to the neighborhood. (Comprehensive Plan Residential Policy)
4. In the suburban residential areas, allow agricultural activities, including the keeping and raising of livestock and/or poultry, provided those activities are conducted according to accepted best management practices and in compliance with any applicable regulations, including the City's provisions governing the keeping and raising of livestock and poultry. (Comprehensive Plan Residential Policy)
5. Encourage use of "Planned Unit Development" to provide for flexible, innovative developments, particularly those that encourage affordable housing. (Comprehensive Plan Residential Policy)

6. Ensure that adequate and safe access to the City's public street system is provided for all new development. (Comprehensive Plan Residential Policy)
7. Ensure that adequate public facilities and services such as public water and sewer systems, transportation facilities and emergency services are available to serve new developments as they occur. (Comprehensive Plan Housing Element Policy)

- B. **Regulations.** Residential uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.16.2 and 10.3.

### **10.5.17 Shoreline Habitat and Natural Systems Enhancement Projects**

See Section 5.17 of this SMP.

### **10.5.18 Shoreline Stabilization**

See Section 5.18 of this SMP.

### **10.5.19 Transportation and Parking**

- A. **Policies.** The following policies shall apply in addition to the policies contained in SMP Section 5.19.1:
1. Maintain existing roads to provide safe travel for all modes of transportation. On a priority basis improve existing roads to meet applicable standards specified in the City's transportation plan. (Comprehensive Plan Transportation Policy)
  2. Require new roads in developments to meet the applicable road standards contained in the City's transportation plan. (Comprehensive Plan Transportation Policy)
  3. Require existing private roads to be improved to City standards before they will be accepted as City roads. (Comprehensive Plan Transportation Policy)
- B. **Regulations.** The regulations of SMP Section 5.19.2 shall apply.

### **10.5.20 Utilities**

- A. **Policies.** The following policies shall apply in addition to the policies contained in SMP Section 5.20.1:

1. Consolidate utility transmission and distribution systems into common service corridors, installing new systems underground. (Comprehensive Plan Utilities Policies)
2. Require effective and timely coordination of all new utility trenching and combining compatible utilities into common trenches. (Comprehensive Plan Utilities Policies)
3. All aboveground utilities should comply with minimum safety standards for height to protect public safety and prevent damage to property. (Comprehensive Plan Utilities Policies)
4. In new residential developments require all new utilities to be installed underground and in cooperation with other compatible utilities. (Comprehensive Plan Utilities Policies)

B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

## **10.6 Nonconforming Uses and Development Standards**

In addition to Chapter 6 policies, the following standards shall be used:

### **10.6.1 Nonconforming lots.**

A structure and its customary accessory buildings may be erected on any legal lot created before the effective date of this SMP. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP provided, that such structure is allowed within the shoreline use environment and all uses of the nonconforming lot shall comply with all other provisions of the SMP and underlying zoning requirements including setbacks, dimensional standards and lot coverage requirements.

### **10.6.2 Nonconforming use of land.**

Where lawful use of the land existed 12 months prior to the effective date of this SMP, which is not permissible under the terms of this SMP, such use may be continued so long as it remains otherwise lawful:

- A. **Size of use.** No such use shall be enlarged or increased, nor extended to occupy a greater area of land, dimensions or volume than was occupied at the effective date of this SMP without the issuance of a Shoreline Conditional Use Permit.
- B. **Change of use.** No such use shall be changed in any manner which will increase its nonconformity to the requirements of this SMP.

- C. **Discontinued nonconforming use.** If a nonconforming use is discontinued or inactive for a period of 12 months, it shall be deemed a discontinued nonconforming use. A discontinued nonconforming use cannot be re-established. Further use of property must conform to the provisions of this title. An application for a building permit within the 12-month period shall be conclusive evidence of resumption of activity or rebuilding within the meaning of this section; provided, however, if the building permit expires before rebuilding is completed, no extension of the permit shall be granted.<sup>24</sup>

### 10.6.3 Nonconforming structures.

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

- A. **Size of use.** No such structure shall be enlarged or altered in a way which increases its nonconformity without the issuance of a conditional use permit.
- B. **Changes.** Nothing in this title shall require any change in plans, construction, alteration or designated use of a structure for which a legal valid building permit existed prior to the effective date of the SMP, except that if the structure will be nonconforming it shall be built to conforming standards if not complete within two years of the effective date of the SMP.
- C. **Damage, loss or destruction not more than 80 percent.** Any nonconforming structure which has been destroyed, damaged or has incurred a loss of not more than 80 percent of its value, which destruction, damage or loss is not the result of the intentional act of the property owner, may be rebuilt within the existing footprint of the damaged or destroyed building, provided no more than 12 months will be allowed in which to resume activity or rebuild, or the structure will be deemed nonconforming and any rebuilding must conform to the provisions of this SMP. Any rebuilding must conform to all other provisions of applicable city ordinances and state laws.<sup>25</sup>
- D. **Damage, loss or destruction more than 80 percent.** Any nonconforming structure which has been destroyed, damaged or has incurred a loss more

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<sup>24</sup> Did not include livestock or junkyard provisions as these seem to have expired.

<sup>25</sup> Simplified compared to original.

than 80 percent of its value may not be rebuilt or repaired unless it conforms to all provisions of this SMP and all other applicable city ordinances and state laws.

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

**10.6.4 Repairs, maintenance and safety of nonconforming structures.**

Other than repairs prohibited by 10.6.3(D), repairs and maintenance work may be undertaken on a nonconforming structure and nothing shall prevent the city from requiring repair of any nonconforming structure to protect health and safety. Maintenance work and repair on a nonconforming structure shall conform to city building and construction codes.

**10.6.5 Moving a nonconforming structure.**

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

**10.6.6 Changes to a nonconforming use.**

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

**10.6.7 Abatement of public nuisance.**

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

**10.6.8 Nonconforming sign provisions.**

- A. **Abatement.** Any sign which is nonconforming in that it does not conform to the regulations in Appendix H shall either be removed or brought into compliance with SMP requirements within the time period prescribed herein:
  - 1. Permanent signs that were in compliance with previous city codes and are now nonconforming solely because of the adoption of this

SMP shall be allowed to continue until any one of the provisions in Subsection B of this section occurs;

2. Any nonconforming portable signs, temporary signs and sandwich board signs shall be discontinued or be brought into compliance no later than 120 calendar days from the effective date of the SMP;
3. Any nonconforming sign in an area subsequently annexed into the city of Cashmere shall be discontinued or brought into compliance as described in Subsection B of this section.

**B. Conditions Under Which Nonconforming Signs Brought Into Compliance.** Nonconforming signs that were in conformance with prior city codes at the time of adoption of the SMP shall immediately be brought into compliance with this chapter and a new sign permit secured if any one of the below events occurs:

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

## 10.7 Shoreline Permits, Procedures and Administration

### 10.7.1 Roles and Responsibilities

- A. The Shoreline Master Program Administrator in Cashmere is the Planning Director <sup>26</sup> and shall have overall administrative responsibility of the SMP. The Shoreline Administrator, or his/her designee, shall make

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<sup>26</sup> The City Administrator is role is defined in CMC 14.03.020.

administrative decisions and interpretations of the policies and regulations of this SMP and the Act.

- B. The Shoreline Administrator shall also have the authority to grant or deny Shoreline Substantial Development Permits, time extensions to shoreline permits, and revisions under this SMP.
- C. In the City of Cashmere, the Hearing Examiner shall decide on appeals of administrative decisions issued by the Shoreline Administrator, Shoreline Variances and Shoreline Conditional Use Permits.
- D. The Cashmere City Council shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the City of Cashmere Planning Commission.
- E. The City of Cashmere Planning Commission shall make recommendations for amendments of this SMP to the Cashmere City Council.

### **10.7.2 Interpretation**

The Shoreline Administrator, or his/her designee, shall provide administrative interpretations in accordance with Cashmere Municipal Code Section 14.03.020 and Section 7.2 of this SMP.

### **10.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in the City of Cashmere shall be in accordance with Cashmere Municipal Code Chapter 14.07.
- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

### **10.7.4 Application Requirements**

- A. Chapter 14.05 of the Cashmere Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted.
- B. See Section 7.4 for the minimum application requirements listed in WAC 173-27-180 and additional requirements of this SMP.

### **10.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.



**10.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

**10.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

**10.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

**10.7.9 Permit Conditions**

See Section 7.9 of this SMP.

**10.7.10 Duration of Permits**

See Section 7.10 of this SMP.

**10.7.11 Initiation of Development**

See Section 7.11 of this SMP.

**10.7.12 Review Process**

- A. The application shall be reviewed by the City of Cashmere in accordance with Cashmere Municipal Code Chapter 14.05, 14.07, and 14.09.
- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the City.

**10.7.13 Appeals**

- A. For administrative appeals, see Cashmere Municipal Code Section 14.11.
- B. In addition, see Section 7.13 of this SMP.

**10.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

**10.8 Definitions**

See Chapter 8 of this SMP.



# 11 CITY OF CHELAN

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## 11.1 Authority and Purpose

See Chapter 1 of this SMP.

## 11.2 Goals and Objectives

See Chapter 2 of this SMP.

## 11.3 Shoreline Jurisdiction and Environment Designations

### 11.3.1 Shoreline Jurisdiction

The City of Chelan contains two shorelines: Lake Chelan and the Chelan River. Both waterbodies are a shoreline of statewide significance. See Section 3.1 of this SMP.

### 11.3.2 Environment Designations

#### A. Urban Conservancy

##### A.1 Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

##### A.2 Designation Criteria

An "Urban Conservancy" environment designation will be assigned to shorelines that are within areas planned for development that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for water-dependent uses other than those uses that support public access and recreation, that are suitable for water-related or water-enjoyment uses; that may be designated as open space, floodplain or other sensitive areas that should not be more intensively developed; and those that retain important ecological functions, even though partially developed.

##### A.3 Management Policies

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

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or

over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

- B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

**B. Shoreline Residential – Single Family**

**B.1 Purpose**

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

**B.2 Designation Criteria**

A "Shoreline Residential – Single Family" environment designation will be assigned to City of Chelan's shorelands if they are predominantly single-family residential development or are planned for single-family residential development.

**B.3 Management Policies**

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

- A. Commercial development should be limited to water-oriented uses and not conflict with the single-family residential character of lands in the Shoreline Residential – Single Family environment.
- B. Water-oriented recreational uses should be allowed.
- C. Adequate land area and services should be provided.

- D. Land division and development should be permitted only 1) when adequate buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.
- E. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- F. New single-family residential development should be located and designed so that future shoreline stabilization is not required.

**C. Shoreline Residential – Multi-Family**

**C.1 Purpose**

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

**C.2 Designation Criteria**

A "Shoreline Residential – Multi-Family" environment designation will be assigned to City of Chelan's shorelands if they are predominantly multi-family residential development or are planned for multi-family residential development.

**C.3 Management Policies**

Development within the Shoreline Residential – Multi-Family environment shall be consistent with the following policies:

- A. Commercial development should be limited to water-oriented uses and not conflict with the multi-family residential character of lands in the "Shoreline Residential – Multi-Family" environment.
- B. Water-oriented recreational uses should be allowed.
- C. Adequate land area and services should be provided.
- D. Land division and development should be permitted only 1) when adequate buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities systems, and public services available and 3) where the environment can

support the proposed use in a manner which protects or restores the ecological functions.

- E. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- F. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.
- G. New multi-family residential development should be located and designed so that future shoreline stabilization is not required.

**D. High Intensity**

**D.1 Purpose**

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

**D.2 Designation Criteria**

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

**D.3 Management Policies**

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

- A. In the "High Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).

- B. Developments in the "High Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical public access should be required as provided for in Sections 4.4 and 11.4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this use-environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

**E. Aquatic**

**E.1 Purpose**

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

**E.2 Designation Criteria**

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

**E.3 Management Policies**

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

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

### **F. Use Matrix and Development Standards**

- A. Table 11-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and SMP provisions as their primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.
- B. An accessory use shall not be established on a property prior to the development of its primary use.
- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in the Shoreline Master Program within Chapter 11 or listed below shall require a Conditional Use Permit.



- E. Uses and modifications identified as “Permitted” require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 11-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes.
- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.
- J. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.
- K. Where a use or modification may occur in the Aquatic environment as indicated in Table 11-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be

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indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.

- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 11-1 indicates “SD/E.” However, if “CU” is listed for the use or modification, that use or modification is not eligible for an exemption.

Table 11-1. Shoreline Use and Modification Matrix for the City of Chelan.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 11; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Agriculture	SD/E	SD/E	SD/E	X	X
Agricultural-Commercial	CU	CU	CU	CU	X
Aquaculture	CU	X	X	SD/E	SD/E
<b>Boating Facilities: Marinas and Boat Launches</b>					
Community piers	SD/E	SD/E	SD/E	SD/E	SD/E
Marinas and commercial piers	SD/E	CU	CU	SD/E	SD/E
Public boat launch	SD/E	CU	SD/E	SD/E	SD/E
Private commercial boat launch	SD/E, <sup>1</sup> CU <sup>3</sup>	X	X	SD/E	SD/E
Private community boat launch	X	CU	CU	CU	CU
Breakwaters/jetties/rock weirs/groins	CU	CU	CU	CU	CU <sup>1</sup>
<b>Commercial Uses</b>					
Water-dependent uses	SD/E, <sup>1</sup> CU <sup>3</sup>	X	X	SD/E	CU
Water-related	SD/E, <sup>1</sup> CU <sup>3</sup>	X	X	SD/E	X
Water-enjoyment uses	SD/E, <sup>1</sup> CU <sup>3</sup>	CU	CU	SD/E	X
Nonwater-oriented uses	X	X	X	SD/E(-)	X
Mixed use commercial	CU(-)	X	X	SD/E	X
Mixed use residential	CU(-)	X	X	SD/E(-)	X
<b>Dredging and dredge materials disposal</b>					
Dredging	--	--	--	--	SD/E(-)
In-water disposal	--	--	--	--	CU

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 11; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Upland disposal outside of CMZ/ floodplain	CU	SD/E	SD/E	SD/E	--
Upland disposal inside of CMZ/ floodplain	CU	CU	CU	CU	--
<b>Fill</b>					
Upland outside of CMZ/floodplain	SD/E	SD/E	SD/E	SD/E	--
Upland inside of CMZ/floodplain	CU	CU	CU	CU	--
In-water restoration	--	--	--	--	SD/E
In-water non-restoration	--	--	--	--	CU
Forest Practices	X	X	X	X	X
<b>Industrial Uses</b>					
Water-dependent uses	X	X	X	SD/E	CU
Water-related uses	X	X	X	SD/E	X
Nonwater-oriented uses	X	X	X	SD/E(-)	X
<b>Institutional<sup>2</sup></b>					
Water-oriented	CU	CU	CU	SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	CU(-)	X
In-Water Structures	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Mining</b>					
Upland mining outside of CMZ/ floodplain	X	X	X	SD/E	--
Upland mining inside of CMZ/ floodplain	X	X	X	CU	--
In-water mining (commercial)	--	--	--	--	CU
In-water mining (recreational)					SD/E(-)
<b>Private Moorage Facilities (permitted on Lake Chelan only)</b>					
Buoys	--	--	--	--	SD/E(-)
Residential piers and docks	SD/E	SD/E	SD/E	SD/E	SD/E
Watercraft lifts	SD/E	SD/E	SD/E	SD/E	SD/E
Private boat launches	X	X	X	X	X
<b>Recreational Uses<sup>2</sup></b>					
Water-dependent	SD/E	CU	CU	SD/E	SD/E
Water-related	SD/E	CU	CU	SD/E	SD/E
Water-enjoyment	SD/E	CU	CU	SD/E	SD/E
Nonwater-oriented	CU	CU	CU	CU	X
<b>Residential Uses</b>					
Single-family	SD/E	SD/E	SD/E	SD/E	X
Multi-family	X	X	SD/E	SD/E	X

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 11; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Over-water	X	X	X	X	X
Floating	--	--	--	--	X
Liveaboards	--	--	--	--	CU
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Shoreline Stabilization</b>					
Bioengineering	SD/E	SD/E	SD/E	SD/E	SD/E
Hard structural shoreline stabilization	CU	SD/E(-)	CU	CU	SD/E
Soft structural shoreline stabilization	SD/E	SD/E	SD/E	SD/E	SD/E
Dikes, levees	CU	CU	CU	CU	--
<b>Transportation and Parking</b>					
Local	SD/E(-)	SD/E(-)	SD/E(-)	SD/E(-)	CU
Regional	CU	CU	CU	CU	CU
<b>Utilities</b>					
Small	CU	SD/E	SD/E	SD/E	CU
Large	CU	CU	CU	CU	CU

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

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

<sup>3</sup> Water-oriented commercial uses are permitted when accessory to a public recreation facility. Otherwise the uses require Conditional Use Permits.

Table 11-2. Shoreline Development Standards Matrix for the City of Chelan.

Standard	Urban Conservancy	Shoreline Residential – Single Family	Shoreline Residential – Multi-Family	High Intensity	Aquatic
Note: All dimensions are in feet. n/a = not applicable					
Shoreline Buffer – All Uses	See Section 11.4.5 of this SMP.				
Shoreline Lot Frontage Minimum – Residential <sup>27</sup>	50	60	50	50	n/a
Side Yard Setback Minimum – Residential <sup>28</sup>	5	5	5	0	5
Height Limit Maximum <sup>29</sup>	30/35 <sup>1</sup>	30	35'	35	35

<sup>1</sup> 30 foot limit for single-family residential and 35' limit for other uses

### 11.3.3 Shoreline Use Preferences

See Section 3.3 of this SMP.

### 11.3.4 Shorelines of Statewide Significance

See Section 3.4 of this SMP.

In the City of Chelan, Lake Chelan and the Chelan River are Shorelines of Statewide Significance.

## 11.4 General Policies and Regulations

### 11.4.1 Archaeological and Historic Resources

See Section 4.1 of this SMP.

### 11.4.2 Ecological Protection and Critical Areas

See Section 4.2 and Appendix B of this SMP.

<sup>27</sup> Generally follows the City’s zoning standards.

<sup>28</sup> Generally follows City’s zoning standards.

<sup>29</sup> City zoning standards are 30 feet for single family and townhomes, and 50 feet for multifamily or commercial. In past discussions, City staff has indicated a preference for 35 feet in the shoreline jurisdiction to address views. Heights are recommended as a key policy discussion during the SMP review.

### 11.4.3 Flood Hazard Reduction

- A. **Policies.** The following policy shall apply in addition to those of SMP Section 4.3.1:
  - 1. The City should discourage development in areas of natural hazard such as those susceptible to landslide, flood, avalanche, unstable soils and excessive slopes, unless appropriate safeguards are taken. (Comprehensive Plan Natural Systems/Critical Areas Goal 2, Policy 1)
- B. **Regulations.** See SMP Section 4.3.2 and Appendix B of this SMP.

### 11.4.4 Public Access

- A. **Policies.** The following policies are supplemental to Section 4.4.1:
  - 1. Implement the goals, policies and facilities identified within the City of Chelan Recreation Department, Parks Division: Comprehensive Plan, the Lakeside Trail Feasibility Study and the Don Morse Park Shoreline Study, and Northshore Pathway Feasibility Study. (based on Comprehensive Plan Recreational Development, Goal 2, Policy 1; Northshore Pathway added with this Shoreline Public Access Plan)
  - 2. Allow public and private development of adequate camping, boat launching, docking and moorage facilities, marinas, and other water-related recreational opportunities on Lake Chelan and the Columbia River. (Comprehensive Plan Open Space/Recreation Goal 3, Policy 3)
  - 3. Maximize the use of parks, schools, recreation and open space resources within the City by connecting them with a coordinated system of trails. (Comprehensive Parks & Recreation Plan PRP 1.2)
  - 4. Continue efforts to develop trails and pathways that would provide connections among recreation sites and community features. Specifically, pursue development of the Lakeside Trail and Northshore Pathway. (Comprehensive Plan Transportation Element Policy 4.4)
  - 5. Provide parks and recreation facilities that are inclusive and accessible to all of the population regardless of age or physical ability. (Comprehensive Parks & Recreation Plan PRP 1.8)

6. Require on-site (or nearby off-site) development of recreation facilities or appropriate and usable park land in conjunction with the approval of any development project (Comprehensive Parks & Recreation Plan PRP 2.3).
7. Encourage shoreline uses and activities to provide their own shoreline public access or to contribute to the implementation of the City of Chelan Shoreline Public Access Plan. (Developed with the Shoreline Public Access Plan)
8. Require development projects along designated trail routes to be designed to incorporate the trail as part of the project. (Comprehensive Parks & Recreation Plan PRP 2.4)

**B. Regulations.** The following standards are supplemental to Section 4.4.2:

1. The City's shoreline public access plan provides for a connected network of parks and open space connected by trails. The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix G.
2. The City shall promote and implement shoreline public access consistent with the following plans that are the basis for the Shoreline Public Access Plan:
  - a. City of Chelan Comprehensive Land Use Plan
  - b. Don Morse Park Shoreline Study & Master Plan
  - c. Lake Chelan Valley Trail Plan
  - d. Lakeside Trail Feasibility Study
  - e. Lord Acres Subarea Plan
  - f. Northshore Pathway Feasibility Study
  - g. Park & Recreation Comprehensive Plan 2008-2014
3. The development of parks and trails in terms of uses, projects, and design standards shall be consistent with the above listed plans in B.2.

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4. Public and recreation shoreline uses and activities. Shoreline public access shall be required for the following public and recreation shoreline uses and activities:
  - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
  - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
  - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
  - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))
5. New Development.
  - a. The City shall apply its adopted policies to developments proposed in shoreline jurisdiction. The City shall apply its municipal code to ensure that there is sufficient parks and recreation to meet the demands of new development including its authority in SEPA, subdivision regulations and parks and community waterfront parks regulations.
  - b. In applying plans, policies, and regulations regarding Shoreline Public Access, the City's primary intent is to encourage shoreline uses and activities to provide their own shoreline public access; the secondary intent is that if providing shoreline public access is not possible under the circumstances that a contribution be made to the implementation of the City of Chelan Shoreline Public Access Plan, rather than require individual shoreline uses and activities independently provide for off-site mitigation.
6. Exceptions: Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria a through f are met and that alternatives have been considered per criteria g. (based on WAC 173-26-221(4)(d)(iii))
  - a. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;



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- b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - c. Significant environmental impacts will result from the public access that cannot be mitigated;
  - d. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  - e. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible;
  - f. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;
  - g. Except in the case of 6f, all feasible alternatives have been exhausted, including, but not limited to:
    - (1) where physical access is not feasible, providing for visual access instead;
    - (2) regulating access by such means as limiting hours of use to daylight hours;
    - (3) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
    - (4) provision of an off-site public access or a fee-in-lieu pursuant to Subsection 7 that allows public access at a site physically separated from, but capable of serving the proposal.
7. Off-site Public Access or Fee-in-Lieu.
- a. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site

public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

- b. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))
8. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
9. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
10. Roads, Streets, and Alleys. The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
11. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))

12. Conditions of Approval. The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include but are not limited to the following:
- a. Use materials appropriate to the character and environmental condition;
  - b. Include barrier free designs to meet Americans with Disabilities Act;
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
  - d. Provide landscaping;
  - e. Provide signage with the appropriate State, County or City logo and hours of access;
  - f. Establish operation and maintenance responsibilities;
  - g. Identify dedication and recording requirements;
  - h. Determine timing of public access installation in relation to the construction of the proposal; and
  - i. Determine ongoing availability to the public or community for which it is designed.

**11.4.5 Vegetation Conservation**

The following regulations are supplementary to Section 4.5.2 of this SMP.

- A. **Buffers.** Table 11-3 establishes buffers to be measured from the OHWM for uses and developments in each environment designation.

Table 11-3. Shoreline Buffers by Environment Designation for the City of Chelan.

<b>Environment Designation</b>	<b>Standard Buffer</b>	<b>Standard Reduced Buffer</b>	<b>Maximum Reduced Buffer</b>
Urban Conservancy	150'	112.5'	75'
Shoreline Residential – Single Family and Multi-Family – Lake Chelan	50'	37.5'	25'

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<b>Environment Designation</b>	<b>Standard Buffer</b>	<b>Standard Reduced Buffer</b>	<b>Maximum Reduced Buffer</b>
Shoreline Residential – Single Family and Multi-Family – Chelan River	100'	75'	50'
High Intensity	50'	37.5'	25'

Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding buffer reductions.

1. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
  - a. Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved and either criteria 1.b or 1.c is applicable.
  - b. A mitigation plan pursuant to Subsection A.4 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or
  - c. Conditions unique to the site, including existing uses, developments, or topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.
  
2. Maximum Buffer Reduction.
  - a. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding fifty (50) percent may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:
    - (1) A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer,

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the standard reduced buffer, and the proposed reduced buffer.

- (2). A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.
  - (3). A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.
  - (4) A mitigation plan as outlined in Section A.4 below.
- b. The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:
- (1) Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved.
  - (2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.
  - (3) The applicant's mitigation plan demonstrates that the selected mitigation options in Subsection A.4 achieve an equal or greater protection of ecological functions than the standard buffer.
3. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the

buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.

4. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:

<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
<b>Water Related Conditions or Actions</b>		
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	35 percent
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent

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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
4	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
5	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft <sup>2</sup> ), or restore aquatic substrate (minimum 250 ft <sup>2</sup> ) depending on the site's particular ecological condition and needs.	10 percent
6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
<b>Upland Related Conditions or Actions</b>		
7	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i> .	20 percent
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
9	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

- a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart below as satisfying the requirements of this section, provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement noted in c. below. The reduction allowance for previously

completed reduction actions may only be applied once on the subject property.

- b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
  - c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.
  - d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
5. The design of uses or activities under Subsection 10.4.5.A. shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.
6. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water-dependent or public access uses.

**B. Additional Standards.**

- 1. Landscape Standard for New Development, or Expansion. Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:



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- a. The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average fifty (50) percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.
- b. Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat functions. At least eight (3) trees per 100 linear feet of shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County, and appropriate for the site's particular soil, exposure, and hydrologic conditions.
- c. Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Chelan critical areas regulations (see Appendix B).
- d. Alternative Compliance with Landscape Standard. Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following and provides an alternative vegetation plan:
  - (1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
  - (2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the

property, or minimum spacing requirements for the vegetation to be planted; or

- (3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area between the primary structure and the OHWM is encumbered by a utility or public access easement, or other constraining factors; or
- (4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

These provisions do not apply to those portions of public recreational water-oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and

motor repair and service, boat ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water-oriented uses and water-dependent uses. Any impacts to ecological functions must be mitigated.

2. Private shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of six (6) feet wide, through the remaining 25 percent of the shoreline buffer. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.

- C. **Mitigation.** All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.
- D. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:
  1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
  2. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on-site.
  3. If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1  $\frac{3}{4}$ ) caliper for deciduous or broad-leaf evergreen tree.

4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.

#### **11.4.6 Water Quality, Stormwater and Nonpoint Pollution**

- A. **Policies.** The following policies shall apply in addition to those of Section 4.6.1 of this SMP.

1. Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

- B. **Regulations.** The following regulations shall apply in addition to those of Section 4.6.2 of this SMP.

1. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
2. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.
3. New development in urban growth areas must demonstrate adequate wastewater treatment to assure that water quality in Lake Chelan is not adversely affected.

### **11.5 Shoreline Modifications and Uses**

#### **11.5.1 General Upland Shoreline Modification and Use Regulations**

- A. **Policies.** See Section 5.1.1 of this SMP.
- B. **Regulations.** In addition to the regulations of Section 5.1.2, the following shall apply:
  1. Development shall comply with the City of Chelan Dark Sky Ordinance, CMC 17.62.

2. Development shall comply with the City of Chelan sign requirements in Appendix H.

### **11.5.2 General Aquatic Shoreline Modification and Use Regulations**

See Section 5.2 of this SMP.

### **11.5.3 Agriculture**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.3.1.
  1. Support ongoing measures by the Lake Chelan Reclamation District, Chelan County Conservation District, area orchardists, and other related agencies and groups, as they raise awareness levels, and monitor and mitigate water quality issues related to agriculture. (Comprehensive Plan Natural Systems/Critical Areas Goal 1, Policy 5)
  2. Recognize that lands can continue to be used for agricultural purposes. (Comprehensive Plan Urban Growth Area Goal 1, Policy 5)
  3. Existing agricultural uses within the Urban Growth Area are grandfathered uses that have the right to continue as long as the owner chooses to operate them. (Comprehensive Plan Urban Growth Area Goal 1, Policy 6)
  4. Review existing land use plans and regulations to ensure that existing agricultural uses are protected from incompatible uses and are provided with reasonable flexibility regarding permitted uses and structures. (Comprehensive Plan Economic Development Goal 3, Policy 3.1)
  5. Review and update existing land use and infrastructure plans and regulations to ensure, without limiting uses, that there are a variety of locations ready for development or expansion of agricultural support and processing facilities. (Comprehensive Plan Economic Development Goal 3, Policy 3.2)
  6. Promote and support efforts to diversify the agricultural industry through agri-tourism, wineries and other value-added agricultural products, and produce stands. (Comprehensive Plan Economic Development Goal 3, Policy 3.3)

- B. **Regulations.** Agricultural uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.3.2 and 11.3.

#### **11.5.4 Aquaculture**

See Section 5.4 of this SMP.

#### **11.5.5 Boating Facilities**

See Section 5.5 of this SMP.

#### **11.5.6 Breakwaters, Jetties, Groins and Weirs**

See Section 5.6 of this SMP.

#### **11.5.7 Commercial Development**

##### **A. Policies.**

1. Proposed commercial development must be compatible with the character of the surrounding area. (Comprehensive Plan Land Use Goal 1, Policy 11)
2. Consider design and redevelopment of private and public waterfront areas for mixed-use development projects that include retail shops, living spaces, overnight lodging, boardwalks, and water-related commercial activities. (Comprehensive Plan Land Use Goal 1, Policy 7)
3. Prioritize the area bounded by the alley between Wooden Avenue and Wapato Avenue on the north, Saunders Street on the east, and the Chelan River for expansion of the downtown Riverfront Park and the downtown business district. (Comprehensive Plan Land use Goal 1, Policy 19)
4. The Lord Acres area should be designated as a special use district as a mixed-use agricultural, tourist commercial, and residential use area. (Comprehensive Plan Land use Goal 1, Policy 20)
5. Encourage relocation of the heavy commercial uses out of the South Shore waterfront area and promote a mixed-use development which includes water-related/dependent tourist commercial activities, and residential. (Comprehensive Plan Land Use Goal 1, Policy 21)

6. New development should adequately address parking, traffic and circulation, and landscaping requirements. (Comprehensive Plan Land Use Goal 1, Policy 23)
7. Restrict outside storage of vehicles or materials to approved screening or enclosed areas in conformance with the fire code. (Comprehensive Plan Land Use Goal 1, Policy 16)

- B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including, but not limited to, SMP Sections 5.7.2 and 11.3.

### **11.5.8 Dredging and Dredge Material Disposal**

See Section 5.8 of this SMP.

### **11.5.9 Fill**

See Section 5.9 of this SMP.

### **11.5.10 Forest Practices**

See Section 5.10 of this SMP.

### **11.5.11 Industry**

- A. **Policies.** The policies of SMP Section 5.11.1 shall apply.
- B. **Regulations.** Industrial uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including, but not limited to, SMP Sections 5.11.2 and 11.3.

### **11.5.12 In-Water Structures**

See Section 5.12 of this SMP.

### **11.5.13 Mining**

See Section 5.13 of this SMP.

### **11.5.14 Private Moorage Facilities**

- A. **Policies.** See Section 5.14.1 of this SMP.
- B. **Regulations.** The following regulation shall apply in addition to those of SMP Section 5.14.2.
  1. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall only be approved as an accessory to an existing

principle permitted and established use, or may be permitted concurrently with a principle use.

### 11.5.15 Recreational Development

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.15.1.
1. The public park system is encouraged to allow commercial ventures and community facilities which allow and do not compromise continued public access. (Comprehensive Plan Recreational Development, Goal 2, Policy 2)
  2. State and publicly owned tourist/recreation destinations should provide adequate sanitary facilities. (Comprehensive Plan Recreational Development, Goal 2, Policy 3)
  3. Encourage development of recreation activities by the private sector working in conjunction with public agencies responsible for management of public lands and resources. (Comprehensive Plan Recreational Development, Goal 3, Policy 2)
  4. Allow public and private development of adequate camping, boat launching, docking and moorage facilities, marinas, and other water-related recreational opportunities on Lake Chelan and the Columbia River. (Comprehensive Plan Recreational Development, Goal 3, Policy 3)
- B. **Regulations.** The regulations of SMP Section 5.15.2 shall apply. In addition, the requirements of Section 11.4.4 shall apply.

### 11.5.16 Residential Development

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.16.1.
1. Encourage an adequate mix of housing units to meet the needs of existing and future residents of the area. Housing types should not be concentrated in one area but distributed in the urban growth area. (Comprehensive Plan Land Use Element, Goal 1, Policy 1)
  2. Flexible standards such as zero lot line development, lot size averaging, clustering and other innovative designs that would reduce the cost of housing developments should be considered so long as public safety and convenience are not unreasonably



compromised. (Comprehensive Plan Land Use Element, Goal 1, Policy 4)

3. Provide incentives for planned residential development to encourage more efficient and creative development in the UGA. (Comprehensive Plan Land Use Element, Goal 1, Policy 10)
4. Allow accessory dwelling units in all residential districts for permanent residences. (Comprehensive Plan Land Use Element, Goal 1, Policy 13)

- B. **Regulations.** Residential uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.16.2 and 11.3.

### **11.5.17 Shoreline Habitat and Natural Systems Enhancement Projects**

See Section 5.17 of this SMP.

### **11.5.18 Shoreline Stabilization**

See Section 5.18 of this SMP.

### **11.5.19 Transportation and Parking**

- A. **Policies.** The Following policies shall apply in addition to those in SMP Section 5.19.1.
1. Provide for a safe, efficient, and environmentally sensitive transportation system for the movement of goods, services, and people to places of employment, retail trade, education, recreation, and residence within the City and Urban Growth Area. (Comprehensive Plan Transportation Element Policy 2.1)
  2. Ensure that design standards have some flexibility to allow for both environmentally sensitive road construction and reasonable efficiency in balancing the public interests. (Comprehensive Plan Transportation Element Policy 2.21)
  3. Minimize, to the degree possible, locating new roads in sensitive areas to minimize environmental disruption and construction costs. (Comprehensive Plan Transportation Element Policy 2.22)
  4. Design roads to minimize impacts on hydrologic systems, including surface and groundwater. (Comprehensive Plan Transportation Element Policy 2.23)

5. Attempt to maximize view potentials when establishing roadway locations and designs. (Comprehensive Plan Transportation Element Policy 2.24)
6. Consider provisions for non-motorized and pedestrian features in the design of all roadway and bridge projects. (Comprehensive Plan Transportation Element Policy 2.26)
7. Improve the safety and capacity of roadways, while retaining the rural aesthetic features on tourist routes. (Comprehensive Plan Transportation Element Policy 2.34)
8. Support water transportation on Lake Chelan as a crucial means of moving people and goods to Stehekin and other locations along the lake. (Comprehensive Plan Transportation Element Policy 5.7)

B. **Regulations.** In addition to the regulations of SMP Section 5.19.2 the following regulations shall apply:

1. Parking and vehicle access shall comply with City of Chelan Development Standards.

### **11.5.20 Utilities**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.20.1.

1. Require effective and timely coordination of all public and private utility trenching activities. (Comprehensive Plan Utilities Goal 1, Policy 1)
2. Require within the urban growth area the undergrounding of all new electrical distribution and communication lines where reasonably feasible. Encourage the undergrounding of all existing electrical distribution and communication lines and new lines where reasonably feasible. (Comprehensive Plan Utilities Goal 1, Policy 2)
3. Encourage the consolidation of utility facilities such as towers, poles, antennas, substation sites, trenches, easements and communication facilities where reasonably feasible. (Comprehensive Plan Utilities Goal 1, Policy 3)

B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

## 11.6 Nonconforming Uses and Development Standards

In addition to Chapter 6 policies, the following standards shall be used:

### 11.6.1 Nonconforming Use

- A. **Conformity Required.** The lawful use of any land, premises or building existing at the time of SMP adoption, although the use does not conform to the provisions thereof, may be continued; but if said nonconforming use ceases for a period of six months, or in the case of churches existing prior to June 2008 ceases for a period of eighteen months, any further use of such premises shall be in conformity with the provisions of this title.
- B. **Changing to conforming use.** A nonconforming use shall not be changed to any other use unless changed to a conforming use.
- C. **Changing to nonconforming use prohibited.** A nonconforming use if changed to a conforming use may not thereafter be changed back to a nonconforming use.
- D. **Destruction – Rebuild or repair.** If a nonconforming use is destroyed by fire or other causes, to the extent that 50 percent of the total floor area exclusive of basement is unusable, it shall not be rebuilt, except in conformity to this title. Provided that cabanas may be rebuilt if destroyed by fire or other causes to the original footprint of the structure and provided that such uses are connected to the public sewer system.
- E. **Extension – Maintenance.** A nonconforming use of a structure shall not be extended. The extension of a nonconforming use to any other portion of the building which was arranged or designed for such nonconforming use shall not be deemed the extension of a nonconforming use. A structure containing a nonconforming use may be maintained in conformance with the standards of the city building code.
- F. **Cabanas.** Provided that the footprint does not increase, cabanas may be repaired, maintained, and altered where consistent with the comprehensive plan or development or character of the area. Repair, maintenance, or alteration above 10 percent of the value of the structure shall require that the owner hook up to the public sewer system.

### 11.6.2 Nonconforming buildings.

In cases of nonconforming buildings which contain conforming uses, the Shoreline Administrator shall have the authority to allow an addition or extension to a nonconforming building when said addition or extension would be no less conforming as to setback distances than the existing structure, and

provided that the nonconforming addition shall be no longer in lineal feet along the nonconforming setback than fifty percent of the lineal length of the existing nonconformity. The authority to grant permission for the addition or extension of a nonconforming building shall be authorized provided the addition or extension of this nonconforming building is not in conflict with the comprehensive plan or development or character of the area in which the nonconforming building is located.

### **11.6.3 Signs – Loss of Nonconforming Status<sup>30</sup>**

A nonconforming sign shall immediately lose its nonconforming designation if:

1. The sign is altered in any way or moved;
2. The business changes ownership;
3. The sign is replaced; or
4. Any new sign is erected or placed in connection with the enterprise using the nonconforming sign.

On the happening of any one of subparagraphs 1, 2, 3, or 4 of this subsection, the sign shall no longer be designated a nonconforming sign and the Shoreline Administrator shall notify the sign user, sign owner, or owner of the property upon which the sign is located of cancellation of the designation and the sign shall immediately be brought into compliance with this chapter and a new sign permit secured therefore, or shall be removed within ten days of notification.

## **11.7 Shoreline Permits, Procedures and Administration**

### **11.7.1 Roles and Responsibilities**

A. The Shoreline Master Program Administrator in the City of Chelan is the Planning Director and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act. The Shoreline Administrator shall also have authority to grant Shoreline Substantial Development Permits as follows:

1. Docks associated with single family residences
2. Micro parks

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<sup>30</sup> Does not include sign amortization provisions – looked like the period expired in City code.

3. Fee-in-lieu determinations
  4. Parking proposals in existing rights-of-way
- B. In the City of Chelan, the Hearing Examiner shall have the authority to grant or deny Shoreline Substantial Development Permits not otherwise assigned to the Shoreline Administrator in Subsection A, time extensions to shoreline permits, revisions, Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- C. The Chelan City Council shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the City of Chelan Planning Commission.
- D. The City of Chelan Planning Commission shall make recommendations for amendments of this SMP to the Chelan City Council.

### **11.7.2 Interpretation**

The Shoreline Administrator shall provide administrative interpretations in accordance with Chelan Municipal Code Section 19.01.080 and Section 7.2 of this SMP.

### **11.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in the City of Chelan shall be in accordance with Chelan Municipal Code Chapters 19.02 and 19.03.
- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

### **11.7.4 Application Requirements**

- A. Chapter 19.02 of the Chelan Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted.
- B. See Section 7.4 for the minimum application requirements listed in WAC 173-27-180 and additional requirements of this SMP.

### **11.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.

**11.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

**11.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

**11.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

**11.7.9 Permit Conditions**

See Section 7.9 of this SMP.

**11.7.10 Duration of Permits**

See Section 7.10 of this SMP.

**11.7.11 Initiation of Development**

See Section 7.11 of this SMP.

**11.7.12 Review Process**

- A. The application shall be reviewed by the City in accordance with Chelan Municipal Code Chapter 19.
- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the City.

**11.7.13 Appeals**

- A. For administrative appeals, see Chelan Municipal Code Chapter 19.06.
- B. In addition, see Section 7.13 of this SMP.

**11.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

**11.8 Definitions**

See Chapter 8 of this SMP.

## **12 CITY OF ENTIAT**

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### **12.1 Authority and Purpose**

See Chapter 1 of this SMP.

### **12.2 Goals and Objectives**

See Chapter 2 of this SMP.

### **12.3 Shoreline Jurisdiction and Environment Designations**

#### **12.3.1 Shoreline Jurisdiction**

The City of Entiat contains two shorelines: the Columbia River (also known as Lake Entiat) and the Entiat River. Both waterbodies are Shorelines of Statewide Significance. See Section 3.1 of this SMP.

#### **12.3.2 Environment Designations**

##### **A. Urban Conservancy**

###### **A.1 Purpose**

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

###### **A.2 Designation Criteria**

An "Urban Conservancy" environment designation will be assigned to shorelines that are within areas planned for development that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for water-dependent uses other than those uses that support public access and recreation, that are suitable for water-related or water-enjoyment uses; that may be designated as open space, floodplain or other sensitive areas that should not be more intensively developed; and those that retain important ecological functions, even though partially developed. .

###### **A.3 Management Policies**

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

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands either directly

or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

- B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

**B. Shoreline Residential**

**B.1 Purpose**

The purpose of the "Shoreline Residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter.

**B.2 Designation Criteria**

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

**B.3 Management Policies**

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

- A. Commercial development should be limited to water-oriented uses and not conflict with the residential character of lands in the Shoreline Residential environment.
- B. Water-oriented recreational uses should be allowed.
- C. Adequate land area and services should be provided.
- D. Land division and development should be permitted only 1) when adequate buffers are provided to protect ecological functions and 2) where there is adequate access, water, sewage disposal, and utilities



systems, and public services available and 3) where the environment can support the proposed use in a manner which protects or restores the ecological functions.

- E. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- F. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.
- G. New residential development should be located and designed so that future shoreline stabilization is not required.

**C. Waterfront Business**

**C.1 Purpose**

The purpose of the "Waterfront Business" environment is to accommodate water-oriented commercial and recreational uses, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. The designation promotes a balance of waterfront public access, shoreline restoration, and water-oriented business development including, but not limited to mixed uses of marina, hotels, restaurants, retail businesses that serve waterfront users, and second-floor residential. Public access is anticipated to include shoreline trails flanked by human-scale buildings and appropriate landscaping per City codes.

**C.2 Designation Criteria**

A "Waterfront Business" environment designation will be assigned to those shorelands located within the City's waterfront business district subarea. Such shoreline areas include largely degraded portions of shoreline located between the Columbia River and the upland railroad right-of-way.

**C.3 Management Policies**

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

- A. In the "Waterfront Business" environment, first priority should be given to water-oriented uses, while protecting existing ecological functions and encouraging restoration of ecological function in areas that have been previously degraded. Nonwater-oriented uses may also be allowed where they do not conflict with or limit opportunities for water-oriented

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uses, or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).

- B. Developments in the "Waterfront Business" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, including recreation.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. New developments shall allow public access to the shoreline.
- E. Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- F. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- G. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- H. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

### **D. High Intensity**

#### **D.1 Purpose**

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

#### **D.2 Designation Criteria**

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

**D.3 Management Policies**

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

- A. In the "High Intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).
- B. Developments in the "High Intensity" environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical public access should be required as provided for in Sections 4.4 and 12.4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas is encouraged.

**E. Aquatic**

**E.1 Purpose**

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

**E.2 Designation Criteria**

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

**E.3 Management Policies**

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

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

**F. Use Matrix and Development Standards**

- A. Table 12-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and

SMP provisions as their primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

- B. An accessory use shall not be established on a property prior to the establishment of its primary use.
- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in the Shoreline Master Program within Chapter 12 or listed below shall require a Conditional Use Permit.
- E. Uses and modifications identified as “Permitted” require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in the definition of Substantial Development included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 12-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes.
- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Variance.

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Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.

- J. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.
- K. Where a use or modification may occur in the Aquatic environment as indicated in Table 12-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.
- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 12-1 indicates "SD/E." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.

Table 12-1. Shoreline Use and Modification Matrix for the City of Entiat.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 12; otherwise prohibited -- = Not applicable	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront Business</b>	<b>High Intensity</b>	<b>Aquatic</b>
Agriculture	SD/E	SD/E	X	X	X
Aquaculture	CU	X	X	SD/E	SD/E

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<p>The chart is coded according to the following legend.</p> <p>SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements</p> <p>CU = Conditional Use</p> <p>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</p> <p>(-) = Subject to use limitations in Chapters 4 &amp; 5 and Chapter 12; otherwise prohibited</p> <p>-- = Not applicable</p>						
	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront Business</b>	<b>High Intensity</b>	<b>Aquatic</b>	
	<b>Boating Facilities: Marinas and Boat Launches</b>					
	Community piers	SD/E	SD/E	SD/E	SD/E	SD/E
	Marinas and commercial piers	SD/E	X	SD/E	SD/E	SD/E
	Public boat launch	SD/E	X	SD/E	SD/E	SD/E
Private commercial boat launch	SD/E	X	SD/E	SD/E	SD/E	
Private community boat launch	X	CU	CU	CU	SD/E	
Breakwaters/jetties/rock weirs/groins	CU	CU	CU	CU	CU <sup>1</sup>	
<b>Commercial Uses</b>						
Water-dependent uses	CU	X	SD/E	SD/E	CU	
Water-related	CU	X	SD/E	SD/E	X	
Water-enjoyment uses	CU	X	SD/E	SD/E	X	
Nonwater-oriented uses	X	X	SD/E(-)	SD/E(-)	X	
Mixed use commercial	CU(-)	X	SD/E	SD/E	X	
Mixed use residential	X	X	SD/E(-)	SD/E(-)	X	
<b>Dredging and dredge materials disposal</b>						
Dredging	--	--	--	--	SD/E(-)	
In-water disposal	--	--	--	--	CU	
Upland disposal outside of CMZ/ floodplain	CU	CU	CU	CU	--	
Upland disposal inside of CMZ/ floodplain	CU	CU	CU	CU	--	
<b>Fill</b>						
Upland outside of CMZ/ floodplain	SD/E	SD/E	SD/E	SD/E	--	
Upland inside of CMZ/ floodplain	CU	CU	CU	CU	--	
In-water restoration	--	--	--	--	SD/E	
In-water non-restoration	--	--	--	--	CU	
Forest Practices	X	X	X	X	X	
<b>Industrial Uses</b>						
Water-dependent uses	X	X	X	SD/E	CU	
Water-related uses	X	X	X	SD/E	X	

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 12; otherwise prohibited -- = Not applicable	Urban Conservancy	Shoreline Residential	Waterfront Business	High Intensity	Aquatic
Nonwater-oriented uses	X	X	X	SD/E(-)	X
Accessory	X	X	X	SD/E	CU
<b>Institutional<sup>2</sup></b>					
Water-oriented	SD/E	CU	SD/E	SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	CU(-)	X
In-Water Structures	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Mining</b>					
Upland mining outside of CMZ/ floodplain	X	X	SD/E	SD/E	--
Upland mining inside of CMZ/ floodplain	X	X	CU	CU	--
In-water mining (commercial)	--	--	--	--	CU
In-water mining (recreational)	--	--	--	--	SD/E(-)
<b>Private Moorage Facilities (permitted on Columbia River only)</b>					
Buoys	--	--	--	--	SD/E
Residential piers and docks	SD/E	SD/E	CU	SD/E	SD/E
Watercraft lifts (canopies prohibited)	SD/E	SD/E	CU	SD/E	SD/E
Private boat launches	X	X	X	X	X
<b>Recreational Uses<sup>2</sup></b>					
Water-dependent	SD/E	SD/E	SD/E	SD/E	SD/E
Water-related	SD/E	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	SD/E	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	CU	CU	CU	CU	X
<b>Residential Uses</b>					
Single-family/Duplex	SD/E	SD/E	SD/E	X	X
Multi-family	SD/E	SD/E	X	X	X
Over-water	X	X	X	X	X
Floating	--	--	--	--	X
Liveaboards	--	--	--	--	X
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Shoreline Stabilization</b>					



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<p>The chart is coded according to the following legend.</p> <p>SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements</p> <p>CU = Conditional Use</p> <p>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</p> <p>(-) = Subject to use limitations in Chapters 4 &amp; 5 and Chapter 12; otherwise prohibited</p> <p>-- = Not applicable</p>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront Business</b>	<b>High Intensity</b>	<b>Aquatic</b>
Bioengineering	SD/E	SD/E	SD/E	SD/E	SD/E
Hard structural shoreline stabilization	CU	CU	CU	CU	CU
Soft structural shoreline stabilization	SD/E	SD/E	SD/E	SD/E	SD/E
Dikes, levees	CU	CU	CU	CU	--
<b>Transportation and Parking</b>					
Local	SD/E(-)	SD/E(-)	SD/E(-)	SD/E(-)	CU
Regional	CU	CU	CU	CU	CU
<b>Utilities</b>					
Small	SD/E	SD/E	SD/E	SD/E	CU
Large	CU	CU	CU	CU	CU

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

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

Table 12-2. Shoreline Development Standards Matrix for the City of Entiat.

<b>Standard</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront Business</b>	<b>High Intensity</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable TBD = To be Determined					
Shoreline Buffer – All Uses	See Section 12.4.5 of this SMP.				
Shoreline Lot Frontage Minimum – Residential <sup>31</sup>	85	85	-	0	n/a
Side Yard Setback Minimum – Residential <sup>32</sup>	5	5	5	0	n/a

<sup>31</sup> Generally based on zoning code standards.

<sup>32</sup> Generally based on zoning code standards.

<b>Standard</b>  Note: All dimensions are in feet. n/a = not applicable TBD = To be Determined	Urban Conservancy	Shoreline Residential	Waterfront Business	High Intensity	Aquatic
Height Limit Maximum <sup>33</sup>	35	35	35	35	35

**12.3.3 Shoreline Use Preferences**

See Section 3.3 of this SMP.

**12.3.4 Shorelines of Statewide Significance**

See Section 3.4 of this SMP.

In the City of Entiat, the Entiat River and the Columbia River are Shorelines of Statewide Significance.

**12.4 General Policies and Regulations**

**12.4.1 Archaeological and Historic Resources**

See Chapter 4.1 of this SMP.

**12.4.2 Ecological Protection and Critical Areas**

See Section 4.2 and Appendix B of this SMP.

**12.4.3 Flood Hazard Reduction**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.3.1:

1. Considerations for surface water runoff, floodplain issues, and maintaining water quality should be incorporated during the design and construction of new developments, including roads and utility corridors. (Comprehensive Plan Policy LU 10.21)
2. The City should reduce danger to health by protecting surface and groundwater supplies from the impairment which results from

<sup>33</sup> City zoning code permits 35 feet for residential. This is generally the height expected in the waterfront plan area as well. However, 50 feet is the maximum for the Commercial/Light Industrial district. A key policy discussion is whether to propose 35 feet within the shoreline jurisdiction and allow increases by conditional use permit; or if the City believes there are overriding considerations and few residences that would be affected by a greater height in that zone.

incompatible land uses by providing safe and sanitary drainage.  
(Comprehensive Plan Policy LU 13.1)

3. Land use practices that may impede the flow of flood water or cause danger to life or property should be discouraged. This includes, but is not limited to, filling, dumping, storage of materials, structures, buildings, and any other works which, when acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows. (Comprehensive Plan Policy LU 13.3)
4. The City should permit and encourage land uses compatible with the preservation of the natural vegetation which is a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth. (Comprehensive Plan Policy LU 13.4)
5. The development of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions, or other hazards should be prevented. (Comprehensive Plan Policy LU 13.6)
6. Frequently flooded areas should be allocated uses for which they are best suited and discourage obstructions to flood-flows and uses which pollute or deteriorate natural waters and water courses. (Comprehensive Plan Policy LU 13.7)
7. The City should promote the preservation of the remaining, significant natural drainages that are an important part of the stormwater drainage system. (Comprehensive Plan Policy LU 13.8)
8. Development within the floodway portion of a floodplain that would alter the course and flow of flood waters and result in damages to other property owners or natural areas shall be prohibited. (Comprehensive Plan Policy LU 13.10)
9. The design of new developments located in regulatory floodplains should incorporate flood damage protection measures.  
(Comprehensive Plan Policy LU 13.11)
10. The installation of new or replacement public facilities, utilities or other public improvements within designated floodplains should utilize prevailing flood damage prevention methods, and where feasible give preference to nonstructural flood hazard reduction

measures over structural measures. (Comprehensive Plan Policy LU 13.12)

11. New development which has the potential to alter and/or obstruct frequently flooded areas should be controlled, thereby avoiding unacceptable increases in flood elevations, reducing flood damage, and allowing proper conveyance of flood flows. (Comprehensive Plan Policy LU 13.13)
12. The City should seek to map areas that are potential flood hazard areas and/or have experienced historical flooding events, such as the Channel Migration Zone, but are not currently included in the Federal Emergency Management Agency's mapping efforts. (Comprehensive Plan Policy LU 13.14)
13. The City should require new development to collect, treat and dispose of its stormwater runoff in an engineered system on-site, or in a private or public system capable of carrying and disposing of the additional volumes. (Comprehensive Plan Policy LU 13.15)
14. Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams. (WAC 173-26-221(3)(b)(iv))
15. Development proposals and restoration projects should evaluate alternative flood control measures, and are encouraged to:
  - a. plan for and facilitate returning river and stream corridors to more natural hydrological conditions, (WAC 173-26-221(3)(b)(v))
  - b. recognize that seasonal flooding is an essential natural process, and (WAC 173-26-221(3)(b)(v))
  - c. consider removal or relocation of structures in flood prone areas. (WAC 173-26-221(3)(b)(vi))

B. **Regulations.** See SMP Section 4.3.2 and Appendix B of this SMP.

#### **12.4.4 Public Access**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.4.1.

1. In partnership with the Chelan County Public Utility District and the Port of Chelan County, and as part of implementing the Entiat

Waterfront Plan, the City of Entiat should provide quality waterfront docks, floats, and boat launches for diverse public boating and recreational uses. (Parks Plan Policy 2.3)

2. The City of Entiat should create a safe, well connected, loop trail system for walkers and bicyclists. (Parks Plan Policy 4.3)
3. The City of Entiat should connect waterfront access points with one another through the development and implementation of a plan to provide a waterfront trail along the Columbia River. (Parks Plan Policy 5.5)
4. The City of Entiat should have viewing areas which display the beauty of the Entiat area and the Columbia and Entiat Rivers. (Parks Plan Policy 5.1)
5. The City of Entiat should develop existing open waterfront as a walkable space for tourists and locals. (Parks Plan Policy 5.2)
6. The City of Entiat should provide incentives for developers to develop and open waterfront properties to the public. (Parks Plan Policy 5.3)
7. The City of Entiat should enforce development standards in the Shoreline Master Program to require public access to shorelines. (Parks Plan Policy 2.1)
8. The City of Entiat should ensure Americans with Disabilities Act compliance with access and usability. (Parks Plan Policy 3.2)
9. The City of Entiat should promote current trail use and the development of new trails within the City and neighboring jurisdictions. Coordinate trail development with neighboring jurisdictions and interested parties to support regional trails. (Comprehensive Plan Transportation Policy T 5.4 and T5.5)
10. Regarding Ecology comment; City of Entiat has no private shoreline parcels large enough to subdivide into four or more parcels in the city limits or UGA. Due to the configuration of the city and the physical limitations of the surrounding terrain, it is unlikely that this will ever be a possibility

B. **Regulations.** The following regulations are supplemental to Section 4.4.2:

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1. The City's shoreline public access plan provides for a connected network of parks and open space connected by trails. The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix G.
2. Public and recreation shoreline uses and activities. Shoreline public access shall be required for the following public and recreation shoreline uses and activities:
  - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
  - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
  - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
  - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))
3. Private development. Shoreline development along designated trail routes per Appendix G shall be designed to incorporate designated trail routes as part of the project.
4. Exceptions: Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria a through g are met and that alternatives have been considered per criteria h. (based on WAC 173-26-221(4)(d)(iii))
  - a. The development consists of less than 5 dwellings or lots;
  - b. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
  - c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

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- d. Significant environmental impacts will result from the public access that cannot be mitigated;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  - f. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible;
  - g. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;
  - h. Except in the case of 4a and 4g, all feasible alternatives have been exhausted, including, but not limited to:
    - (1) where physical access is not feasible, providing for visual access instead;
    - (2) regulating access by such means as limiting hours of use to daylight hours;
    - (3) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
    - (4) provision of an off-site public access or a fee-in-lieu pursuant to Subsection 5 that allows public access at a site physically separated from, but capable of serving the proposal.
5. Off-site Public Access or Fee-in-Lieu.
- a. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a

nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

- b. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))
6. Design Standards.
- a. Lake Entiat Trail. Trail widths shall be in conformance with federal Americans with Disabilities Act (ADA) requirements and the Lake Entiat Waterfront Master Plan.
  - b. Entiaqua Trail. Trail widths shall be in conformance with ADA requirements and City of Entiat adopted Park, Recreation, and Open Space Plan.
  - c. Entiat River Outdoor Learning Center. Trail widths shall be 5-10 feet in width in conformance with approved plans.
7. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
8. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.



9. Roads, Streets, and Alleys. The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
10. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))
11. Conditions of Approval. The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include, but are not limited to the following:
  - a. Use materials appropriate to the character and environmental condition;
  - b. Include barrier free designs to meet Americans with Disabilities Act;
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
  - d. Provide landscaping;
  - e. Provide signage with the appropriate State, County or City logo and hours of access;
  - f. Establish operation and maintenance responsibilities;
  - g. Identify dedication and recording requirements;
  - h. Determine timing of public access installation in relation to the construction of the proposal; and
  - i. Determine ongoing availability to the public or community for which it is designed.

#### **12.4.5 Vegetation Conservation**

The following regulations are supplementary to Section 4.5.2 of this SMP.

- A. **Buffers.** The following table establishes buffers to be measured from the OHWM for uses and developments in each environment designation.

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Table 12-3. Shoreline Buffers by Environment Designation for the City of Entiat.

<b>Environment Designation</b>	<b>Standard Buffer</b>	<b>Standard Reduced Buffer</b>	<b>Maximum Reduced Buffer</b>
Urban Conservancy	150'	112.5'	75'
Shoreline Residential	80'	60'	40'
High Intensity	40'40'	30'30'	25'
Waterfront Business	50'	37.5'	25'

Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding buffer reductions.

1. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
  - a. Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved and either criteria 1.b or 1.c is applicable.
  - b. A mitigation plan pursuant to Subsection A.4 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or
  - c. Conditions unique to the site, including existing uses, developments, or topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.
  
2. Maximum Buffer Reduction.
  - a. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding fifty (50) percent may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:

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- (1) A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the standard reduced buffer, and the proposed reduced buffer.
  - (2). A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.
  - (3). A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.
  - (4) A mitigation plan as outlined in Section A.4 below.
- b. The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:
- (1) Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved.
  - (2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.
  - (3) The applicant's mitigation plan demonstrates that the selected mitigation options in Subsection A.4 achieve an equal or greater protection of ecological functions than the standard buffer.
3. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height

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standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.

4. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:

<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
<b>Water Related Conditions or Actions</b>		
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	35 percent
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened	15 percent

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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
	watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	
4	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
5	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft <sup>2</sup> ), or restore aquatic substrate (minimum 250 ft <sup>2</sup> ) depending on the site's particular ecological condition and needs.	10 percent
6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
<b>Upland Related Conditions or Actions</b>		
7	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i> .	20 percent
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
9	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

- a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart below as satisfying the requirements of this section, provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement

noted in c. below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.

- b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
  - c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.
  - d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
- 5. The design of uses or activities under Subsection 12.4.5.A. shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.
  - 6. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water-dependent or public access uses.

**B. Additional Standards.**

- 1. **Landscape Standard for New Development, or Expansion.** Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:

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- a. The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average fifty (50) percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.
- b. Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat functions. At least three trees per 100 linear feet of shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County, and appropriate for the site's particular soil, exposure, and hydrologic conditions.
- c. Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B).
- d. Alternative Compliance with Landscape Standard. Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following and provides an alternative vegetation plan:
  - (1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
  - (2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the

property, or minimum spacing requirements for the vegetation to be planted; or

- (3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area between the primary structure and the OHWM is encumbered by a utility or public access easement, or other constraining factors; or
- (4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

These provisions do not apply to those portions of public recreational water-oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and



motor repair and service, boat ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water-oriented uses and water-dependent uses. Any impacts to ecological functions must be mitigated.

2. Private physical shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of six (6) feet wide, through the remaining 25 percent of the shoreline buffer. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.

C. **Mitigation.** All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.

D. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:

1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
2. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on-site.
3. If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1  $\frac{3}{4}$ ) caliper for deciduous or broad-leaf evergreen tree.

4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.

#### **12.4.6 Water Quality, Stormwater and Nonpoint Pollution**

See Section 4.6 of this SMP.

### **12.5 Shoreline Modifications and Uses**

#### **12.5.1 General Upland Shoreline Modification and Use Regulations**

See Section 5.1 of this SMP. Sign regulations of Appendix H also apply.

#### **12.5.2 General Aquatic Shoreline Modification and Use Regulations**

See Section 5.2 of this SMP.

#### **12.5.3 Agriculture**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.3.1.
  1. Agricultural activities, including commercial and hobby farms, are encouraged to incorporate Best Management Practices (BMPs) concerning animal keeping, animal waste disposal, fertilizer use, pesticide use, and stream corridor management. (Comprehensive Plan Policy LU 18.19)
  2. Recognize the continued agricultural use of land inside the Entiat urban growth boundary. (Comprehensive Plan Goal LU 24)
  3. Ensure that agricultural activities are not excluded as permitted activities nor granted special status not provided other land uses within the Urban Growth Area. (Comprehensive Plan Policy LU 24.1)
- B. **Regulations.** Agricultural uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.3.2 and 12.3.

#### **12.5.4 Aquaculture**

See Section 5.4 of this SMP.

### 12.5.5 Boating Facilities

See Section 5.5 of this SMP.

### 12.5.6 Breakwaters, Jetties, Groins and Weirs

See Section 5.6 of this SMP.

### 12.5.7 Commercial Development

- A. **Policies.** In addition to the policies of SMP Section 5.7, implement the following policies:
1. Create a stable and diverse business sector that will provide needed goods and services to the community, enhance the City's tax base and support the agricultural and tourism industries (Comprehensive Plan Commercial Element Objective)
  2. Protect existing commercial areas from intrusions by incompatible non-commercial activities. (Comprehensive Plan Commercial Element Policy LU 3.1)
  3. Identify and encourage the preservation of sites and structures with historical or archaeological significance, particularly those that might generate tourist appeal. (Comprehensive Plan Commercial Element Policy LU3.3)
  4. Encourage infill of existing commercial and industrial lands in preference to expansion or creation of new zones. (Comprehensive Plan Economic Development Policy ED 2.5)
  5. Recruit hotel/motel, dining, and shopping venues for the waterfront district. (Comprehensive Plan Economic Development Policy 2.5)
  6. Provide adequate parking. (Comprehensive Plan Economic Development Policy ED 6.6)
  7. Build marina, waterfront trail, public restrooms, and basic infrastructure for waterfront development. (Comprehensive Plan Economic Development Policy 2.2)
  8. Develop standards for information and directional signs for parks, public services and other points of interest. (Comprehensive Plan Economic Development Policy ED 2.6)

9. Adopt and enforce landscaping, screening, buffering and maintenance standards for the commercial and industrial areas of the City. (Comprehensive Plan Economic Development Policy ED 1.1)
  10. Implement the Lake Entiat Waterfront Business District Subarea Plan.
- B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.7.2 and 12.3.

### **12.5.8 Dredging and Dredge Material Disposal**

See Section 5.8 of this SMP.

### **12.5.9 Fill**

See Section 5.9 of this SMP.

### **12.5.10 Forest Practices**

Pursuant to City Comprehensive Plan Goal LU 17 “Forest resource lands have not been identified in the Entiat urban growth boundary so no goals and policies have been generated.” If forest practices become relevant in the future, SMP Section 5.10 shall apply.

### **12.5.11 Industry**

The City of Entiat has no waterfront industrial zones. A light industrial zone exists upland of the waterfront (outside of the 200’ shoreline jurisdiction). No new heavy industrial use is allowed within the City limits.

### **12.5.12 In-Water Structures**

See Section 5.12 of this SMP.

### **12.5.13 Mining**

See Section 5.13 of this SMP.

### **12.5.14 Private Moorage Facilities**

- A. **Policies.** See Section 5.14.1 of this SMP.
- B. **Regulations.** The following regulations shall apply in addition to those of SMP Section 5.14.2.

1. Docks, boatlifts and private boat launches are prohibited on the Entiat River.
2. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall only be approved as an accessory to an existing principle permitted and established use, or may be permitted concurrently with a principle use.

### **12.5.15 Recreational Development**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.15.1.
  1. Renovation of City/PUD Park to include trail; swimming beach; fire pits; additional boat launches; and upgrades to existing camping, parking, and restroom facilities. (Comprehensive Plan Land Use Goal 8)
  2. Develop planned Entiaqua trail and outdoor learning center on Entiat River. (Comprehensive Plan Land Use Goal 9)
  3. Develop waterfront trail to connect with trail at PUD/City Park and cross highway to Columbia Breaks Fire Interpretive Center. (Comprehensive Plan Goal 10)
  4. Develop green spaces and shelters in waterfront business district. (Comprehensive Plan Goal 11)
  5. Encourage local developers and entrepreneurs to build private recreational facilities. (Comprehensive Plan Land Use Policy LU 17.2)
  6. Identify and encourage the preservation of sites and structures with historical or archaeological significance, particularly those that might generate tourist appeal. (Comprehensive Plan Land Use Policy LU 3.3)
  7. Support partnerships with other public agencies and private entities which provide recreational facilities within the UGA and in the broader, surrounding area. (Comprehensive Plan Land Use Policy CF 1.15)
- B. **Regulations.** The regulations of SMP Section 5.15.2 shall apply.

### 12.5.16 Residential Development

- A. **Policies.** The following policies shall apply in addition to those in SMP Section 5.16.1.
1. Provide for an adequate mix of housing types to meet the needs of existing and future residents. (Comprehensive Plan Land Use Policy LU 2.1)
  2. Protect existing established neighborhoods from the disruption of incompatible uses. (Comprehensive Plan Land Use Policy LU 2.6)
  3. Require development standards for multi-family dwellings that include provisions for adequate, useable open space located on the project site, and for appropriate buffering methods to lessen the impact of parking, refuse storage and other facilities on-site. (Comprehensive Plan Land Use Policy LU 2.8)
- B. **Regulations.** Residential uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.16.2 and 12.3.

### 12.5.17 Shoreline Habitat and Natural Systems Enhancement Projects

See Section 5.17 of this SMP.

### 12.5.18 Shoreline Stabilization

See Section 5.18 of this SMP.

### 12.5.19 Transportation and Parking

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.19.1.
1. Promote the improvement of transportation systems to serve present and future residential, commercial and industrial land uses. (Comprehensive Plan Policy T 2.1)
  2. Ensure that adequate provisions are made for off-street parking needs associated with new development. (Comprehensive Plan Policy T 2.4)
  3. Support a pedestrian-friendly community by seeking funding for sidewalks and encouraging development to include pedestrian

friendly design, such as lighting, trees and low shrubs.  
(Comprehensive Plan Policy T 5.2)

4. Promote current trail use and the development of new trails within the City and neighboring jurisdictions. (Comprehensive Plan Policy T5.4)

B. **Regulations.** The regulations of SMP Section 5.19.2 shall apply.

## 12.5.20 Utilities

A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.20.1.

1. Development approvals shall be subject to a requirement that utilities will be fully operational concurrently with the use and occupancy of the development.( Comprehensive Plan Utilities Policy U 1.1)
2. Require timely and effective coordination for all public and private utility trenching activities. (Comprehensive Plan Utilities Policy U 1.2)
3. Encourage the consolidation of utility facilities such as towers, poles, antennas, substation sites, trenches, easements and communication facilities where feasible. (Comprehensive Plan Utilities Policy U 1.3)
4. Require the underground placement of new or replacement utilities where economically feasible to do so. (Comprehensive Plan Utilities Policy U 3.1)
5. Utility installations occurring near waterways or in areas where erosion from disturbed soils could enter surface waters shall be regulated in such a manner so as to not adversely affect water quality. (Comprehensive Plan Utilities Policy U 3.2)
6. Soils disturbed by utility installation activities shall be reclaimed in a timely manner to protect water quality and revegetate fragile hillside areas. (Comprehensive Plan Utilities Policy U 3.3)

B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

## 12.6 Nonconforming Uses and Development Standards

In addition to the policies of Chapter 6, the following standards shall apply:

### **12.6.1 Intent and purpose**

Within the use environments established by this SMP there exist uses, structures and lots which were lawfully established or created, but which would be prohibited, regulated or restricted under the terms of this SMP or future amendments. The intent of this section is to allow these nonconformities to continue but not to encourage their perpetuation or survival. Nonconformities are declared by this title to be incompatible with permitted uses, structures and lots in the districts involved. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded, or enjoy an increase in intensity of use.

### **12.6.2 Nonconforming uses**

- A. A legal nonconforming use in existence as of the effective date of the SMP may be continued but shall not be enlarged upon, expanded, increased in intensity, or extended. However, the extension of the nonconforming use of a structure that was originally arranged or designed for such nonconforming use at the time of passage of the SMP or amendment thereto shall not be deemed the extension of a nonconforming use.
- B. A nonconforming use shall not be changed to any other use unless changed to a conforming use. A nonconforming use, if changed to a conforming use, may not thereafter be changed to a nonconforming use.
- C. No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of the ordinance codified in this title or amendment thereto.
- D. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that part occupied by such use on the effective date of adoption or amendment of the ordinance codified in this title.
- E. If a nonconforming use is discontinued or abandoned from active use for a period of one year, further use of the property shall conform to the provisions of this SMP.

### **12.6.3 Nonconforming structure**

- A. A structure which is legally nonconforming as of the effective date of the ordinance codified in this title by reason of restrictions on area, lot coverage, height, required setbacks, or other requirements concerning structures may be continued so long as it remains otherwise lawful.



- B. A structure, with one or more nonconformity, may be extended when said addition or extension would be no less conforming as to setback distance than the existing structure.
- C. A nonconforming structure shall not be altered, extended, enlarged, or otherwise physically changed in any manner that would have the effect of increasing its amount or degree of nonconformity.
- D. A nonconforming structure destroyed by any cause to an extent exceeding 50 percent of its cost of replacement using new materials shall only be replaced with a structure conforming to the provisions of this SMP.
- E. Nothing in this title shall be deemed to prevent the normal maintenance and repair of a nonconforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

**12.6.4 Nonconforming lots.**

Lots which were lots of record on the date of adoption of the SMP, or amendment thereto, which contain less than the required width, depth, or area as required by this SMP shall be considered building lots in all respects; provided, that any structures proposed to be built meet all of the dimensional requirements of the district in which the lot is located. However, a lot which is nonconforming by virtue of the lack of its adequate access to a public street as required elsewhere in this title shall not be considered a building lot.

**12.6.5 Nonconforming Signs**

Any sign lawfully existing under all codes and regulations prior to the adoption of the SMP may be continued and maintained as a legal nonconforming sign, provided:

- A. No sign shall be changed in any manner that increases its noncompliance with the applicable sign provisions.
- B. If the sign is structurally altered or moved, its legal nonconforming status shall be void and the sign will be required to conform to the provisions of the SMP.
- C. The sign is not hazardous or abandoned.
- D. The burden of establishing the legal nonconformity of a sign under this section is the responsibility of the person or persons, firm, or corporation

claiming legal status of a sign. The approval of an asserted nonconformity is a limited administrative function of the mayor.

- E. By destruction, damage, obsolescence or danger, the right to maintain any sign shall terminate and shall cease to exist whenever the sign is:
  - 1. Damaged or destroyed beyond 50 percent of the cost of replacement, as determined by the mayor as a limited administrative review responsibility; and/or
  - 2. Structurally substandard to the extent that the sign becomes a hazard or a danger to the public health, safety, and welfare as determined by the mayor as a limited administrative review responsibility.

## **12.7 Shoreline Permits, Procedures and Administration**

### **12.7.1 Roles and Responsibilities**

- A. The Shoreline Master Program Administrator in the City of Entiat is the Community Development Director and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act.
- B. In the City of Entiat, the Hearing Examiner shall have the authority to grant or deny Shoreline Substantial Development Permits, time extensions to shoreline permits, revisions, Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- C. The Entiat City Council shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the City of Entiat Planning Commission.
- D. The City of Entiat Planning Commission shall make recommendations for amendments of this SMP to the Entiat City Council.

### **12.7.2 Interpretation**

The Administrator shall provide administrative interpretations in accordance with Entiat Municipal Code Section 14.04.010.

**12.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in the City of Entiat shall be in accordance with Entiat Municipal Code Chapters 14.06 and 14.08.
- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

**12.7.4 Application Requirements**

- A. Section 14.080.030 of the Entiat Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted.
- B. See Section 7.4 of this SMP for the minimum application requirements listed in WAC 173-27-180 and other application requirements of this SMP.

**12.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.

**12.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

**12.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

**12.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

**12.7.9 Permit Conditions**

See Section 7.9 of this SMP.

**12.7.10 Duration of Permits**

See Section 7.10 of this SMP.

**12.7.11 Initiation of Development**

See Section 7.11 of this SMP.

**12.7.12 Review Process**

- A. The application shall be reviewed by the City in accordance with Entiat Municipal Code Chapter 14.08.

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- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the City.

### **12.7.13 Appeals**

- A. See Section 7.13 of this SMP.
- B. In addition, for administrative appeals, see Entiat Municipal Code Section 14.10.030.

### **12.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

## **12.8 Definitions**

See Chapter 8 of this SMP.

# 13 CITY OF LEAVENWORTH

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## 13.1 Authority and Purpose

See Chapter 1 of this SMP.

## 13.2 Goals and Objectives

See Chapter 2 of this SMP.

## 13.3 Shoreline Jurisdiction and Environment Designations

### 13.3.1 Shoreline Jurisdiction

The City of Leavenworth contains two shorelines: the Wenatchee River, a Shoreline of Statewide Significance, and Chumstick Creek. See Section 3.1 of this SMP.

### 13.3.2 Environment Designations

#### A. Natural

##### A.1 Purpose

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

##### A.2 Designation Criteria

A "Natural" environment designation will be assigned to shoreline areas that are ecologically intact and therefore currently perform an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; represent ecosystems and geologic types that are of particular scientific and educational interest; or are unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, and ecologically intact shoreline habitats. "Natural" environment designations are typically free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple

canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies.

**A.3 Management Policies**

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

- A. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should be prohibited.
- B. The following new uses should not be allowed in the "Natural" environment:
  - 1. commercial uses;
  - 2. industrial uses;
  - 3. nonwater-oriented recreation;
  - 4. and roads, utility and infrastructure corridors, and parking areas that can be located outside of "Natural" environment designated shorelines.
- C. Access may be permitted for scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational uses that do not impact ecological functions.
- D. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions is prohibited. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions is not allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

**B. Urban Conservancy**

**B.1 Purpose**

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

**B.2 Designation Criteria**

An "Urban Conservancy" environment designation will be assigned to shorelines that are within areas planned for development that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for water-dependent uses other than those uses that support public access and recreation, that are suitable for water-related or water-enjoyment uses; that may be designated as open space, floodplain or other sensitive areas that should not be more intensively developed; and those that retain important ecological functions, even though partially developed.

**B.3 Management Policies**

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

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

**C. Shoreline Residential**

**C.1 Purpose**

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

**C.2 Designation Criteria**

A "Shoreline Residential" environment designation will be assigned to shorelands if they are predominantly single-family or multi-family residential development or are planned for residential development.

**C.3 Management Policies**

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

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

**D. High Intensity**

**D.1 Purpose**

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



**D.2 Designation Criteria**

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

**D.3 Management Policies**

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

- A. In the High Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).
- B. Developments in the High Intensity environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical public access should be required as provided for in Sections 4.4 and 13.4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." During an analysis of shoreline uses, consideration should be given to the

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

**E. Aquatic**

**E.1 Purpose**

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

**E.2 Designation Criteria**

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

**E.3 Management Policies**

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

- A. New over-water structures should be prohibited except for water-dependent uses, public access, necessary shoreline crossings, or ecological restoration.
- B. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- C. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
- D. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- E. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in Section 4.2, Ecological Protection and Critical Areas.

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

**F. Use Matrix and Development Standards**

- A. Table 13-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and SMP Provisions as their primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.
- B. An accessory use shall not be established on a property prior to the establishment of its primary use.
- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in the Shoreline Master Program in Chapter 13 or listed below shall require a Conditional Use Permit.
- E. Uses and modifications identified as “Permitted” require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 13-2. In addition, shoreline developments shall comply with all density, lot area, setback and other

dimensional requirements of the responsible local government zoning and subdivision codes

- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Variance. Departures from the maximum height limit shall be subject to approval of a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.
- J. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline ecological functions and processes shall prevail.
- K. Where a use or modification may occur in the Aquatic environment as indicated in Table 13-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.
- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 13-2 indicates "SD/E." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.

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Table 13-1. Shoreline Use and Modification Matrix for the City of Leavenworth.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5 and Chapter 13; otherwise prohibited	Natural	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
Agriculture	X	X	CU	CU	X
Agricultural-Commercial	X	X	CU	CU	X
Aquaculture	X	X	SD/E	SD/E	SD/E
<b>Boating Facilities: Marinas and Boat Launches</b>					
Community piers	X	X	X	X	X
Marinas and commercial piers	X	X	X	X	X
Public boat launch	X	SD/E	CU	SD/E	SD/E
Breakwaters/jetties/rock weirs/groins	X	CU	CU	CU	CU <sup>1</sup>
<b>Commercial Uses</b>					
Water-dependent uses	X	CU	X	SD/E	CU
Water-related	X	CU	X	SD/E	X
Water-enjoyment uses	X	CU	CU	SD/E	X
Nonwater-oriented uses	X	X	X	SD/E(-)	X
Mixed use commercial	X	CU	X	SD/E	X
Mixed use residential	X	CU	X	SD/E(-)	X
<b>Dredging and dredge materials disposal</b>					
Dredging	--	--	--	--	SD/E(-)
In-water disposal	--	--	--	--	CU
Upland disposal outside of CMZ/ floodplain	X	CU	SD/E	SD/E	--
Upland disposal inside of CMZ/ floodplain	X	CU	CU	CU	--
<b>Fill</b>					
Upland outside of CMZ/ floodplain	X	SD/E	SD/E	SD/E	--
Upland inside of CMZ/ floodplain	X	CU	CU	CU	--
In-water restoration	--	--	--	--	SD/E
In-water non-restoration	--	--	--	--	CU
Forest Practices	X	CU	X	X	X
<b>Industrial Uses</b>					
Water-dependent uses	X	X	X	SD/E	CU
Water-related uses	X	X	X	SD/E	X
Nonwater-oriented uses	X	X	X	SD/E(-)	X
<b>Institutional<sup>2</sup></b>					
Water-oriented	CU	SD/E	CU	SD/E	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	CU(-)	X
In-Water Structures	CU	SD/E	SD/E	SD/E	SD/E

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapter 4 & 5 and Chapter 13; otherwise prohibited	Natural	Urban Conservancy	Shoreline Residential	High Intensity	Aquatic
<b>Mining</b>					
Upland mining outside of CMZ	X	X	X	SD/E	--
Upland mining inside of CMZ	X	X	X	CU	--
In-water mining (commercial)	--	--	--	--	CU
In-water mining (recreational)	--	--	--	--	SD/E(-)
Private Moorage Facilities (docks, launches)	X	X	X	X	X
<b>Recreational Uses<sup>2</sup></b>					
Water-dependent	CU	SD/E	SD/E	SD/E	SD/E
Water-related	CU	SD/E	SD/E	SD/E	SD/E
Water-enjoyment	CU	SD/E	SD/E	SD/E	SD/E
Nonwater-oriented	CU	CU	CU	CU	X
<b>Residential Uses</b>					
Single-family/Duplex	X	SD/E	SD/E	SD/E	X
Multi-family	X	X	CU	SD/E	X
Over-water	X	X	X	X	X
Floating	-	-	-	-	X
Liveaboards	--	--	--	--	X
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Shoreline Stabilization</b>					
Bioengineering	SD/E	SD/E	SD/E	SD/E	SD/E
Hard structural shoreline stabilization	X	CU	SD/E(-)	CU	SD/E
Soft structural shoreline stabilization	CU	SD/E	SD/E	SD/E	SD/E
Dikes, levees	X	CU	CU	CU	--
<b>Transportation and Parking</b>					
Local	X	SD/E(-)	SD/E(-)	SD/E(-)	X
Regional	X	CU	CU	CU	CU
<b>Utilities</b>					
Small	CU	SD/E	SD/E	SD/E	CU
Large	CU	CU	CU	CU	CU

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

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

Table 13-2. Shoreline Development Standards Matrix for the City of Leavenworth.

<b>Standard</b>	<b>Natural</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>High Intensity</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable					
Shoreline Buffer – All Uses	See Section 13.4.5 of this SMP.				
Shoreline Lot Frontage Minimum – Residential <sup>34</sup>	100	60	60	0	n/a
Side Yard Setback Minimum – Residential <sup>35</sup>	10	5	5	0	n/a
Height Limit Maximum <sup>36</sup>	35	35	35	35	35

### **13.3.3 Shoreline Use Preferences**

See Section 3.3 of this SMP.

### **13.3.4 Shorelines of Statewide Significance**

See Section 3.4 of this SMP.

In the City of Leavenworth, the Wenatchee River is a Shoreline of Statewide Significance.

## **13.4 General Policies and Regulations**

### **13.4.1 Archaeological and Historic Resources**

See Section 4.1 of this SMP.

### **13.4.2 Ecological Protection and Critical Areas**

See Section 4.2 and Appendix B of this SMP.

### **13.4.3 Flood Hazard Reduction**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.3.1:

1. SEPA, the SMP, flood hazard reduction, and critical areas policies and regulations should be utilized to ensure protection of the

<sup>34</sup> The Recreation Public zone that applies to the Natural area does not have a minimum lot width requirement. The 100 foot suggestion is preliminary and subject to discussion. The 60 foot lot width for residential uses is based on City zoning for Low Density Residential 6,000 and Residential Multifamily Zones. Commercial zones do not have a minimum lot width.

<sup>35</sup> Generally based on zoning, except that the standard side yard is doubled in the Natural use environment.

<sup>36</sup> Residential and public height limits are 35 feet in the zoning code. The commercial and industrial zones range from 35 feet to 50 feet. We are proposing 35 feet based on discussions with City staff given concerns regarding view protection, such as from Highway 2. This is a key policy discussion.

natural environment and critical resources. (Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 1)

2. Development in natural hazard areas such as those susceptible to landslide, flood, avalanche, unstable soils, and excessive slopes should be discouraged. (Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 2)
3. The development of floodplains should be regulated in order to help mitigate the loss of floodplain storage capacity. (Comprehensive Plan Natural Systems and Critical Areas, Goal 1, Policy 2)
4. Flood hazard protection should, where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.
5. Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams. (WAC 173-26-221(3)(b)(iv))
6. Development proposals and restoration projects should evaluate alternative flood control measures, and are encouraged to:
  - a. plan for and facilitate returning river and stream corridors to more natural hydrological conditions, (WAC 173-26-221(3)(b)(v))
  - b. recognize that seasonal flooding is an essential natural process, (WAC 173-26-221(3)(b)(v))
  - c. consider removal or relocation of structures in flood prone areas. (WAC 173-26-221(3)(b)(vi))

D. **Regulations.** See SMP Section 4.3.2 and Appendix B of this SMP.

#### **13.4.4 Public Access**

A. **Policies.** The following policies are supplementary to Section 4.4.1 of this SMP:

1. Conserve open space and encourage open space considerations in future development. (Land Use Element, Open Space/Recreation, Goal 1)



2. Enhance public recreational opportunities by providing a variety of year-round active and passive recreational activities for both residents and visitors. (Land Use Element, Open Space/Recreation, Goal 2)
3. Develop and maintain parks and recreational facilities capable of serving the anticipated needs of Leavenworth, including the urban growth area. (Capital Facilities Element, General Goal 3)
4. Where appropriate for recreation or open space purposes, the City of Leavenworth should encourage recreational use of derelict land, easements, tax delinquent land, surplus roadway/highway rights-of-way, and other land not presently in productive use where such land can be used for land exchange, purchase, or long-term leases for recreation purposes. (Parks and Recreation Comprehensive Plan Policy 1, bullet 2)
5. The City of Leavenworth should encourage the planning, development and full utilization of trails and recreation facilities. (Parks and Recreation Comprehensive Plan Policy 3)
6. Facilitate the development of an interconnecting trail system for the Upper Valley of Chelan County, consisting of sidewalks, bike lanes, and non-motorized shared-use paths for variety of trail users including bicyclists, equestrians, cross-country skiers, and pedestrians of all ages and skill levels. (Connectivity: 2009 Upper Valley Regional Trails Plan)
7. Increase access to local and regional recreational opportunities for people of all ages and levels of mobility. Provide a variety of trail experiences by locating trails of varying lengths and difficulty through diverse terrain, scenery, and points of attraction to draw users and maintain their interest. (Recreational Opportunities: 2009 Upper Valley Regional Trails Plan)

**B. Regulations.** The following regulations are supplementary to Section 4.4.2 of this SMP.

1. The City's shoreline public access plan provides for a connected network of parks and open space connected by trails. The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix G.

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2. Public and recreation shoreline uses and activities. Shoreline public access shall be required for the following public and recreation shoreline uses and activities:
  - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
  - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
  - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
  - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))
3. Private development. Shoreline development along designated trail routes per Appendix G shall be designed to incorporate designated trail routes as part of the project.
4. Exceptions: Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least one of the criteria a through g are met and that alternatives have been considered per criteria h. (based on WAC 173-26-221(4)(d)(iii))
  - a. The development consists of less than five dwellings or lots;
  - b. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
  - c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - d. Significant environmental impacts will result from the public access that cannot be mitigated;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;

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- f. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible;
  - g. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;
  - h. Except in the case of 4a and 4g, all feasible alternatives have been exhausted, including, but not limited to:
    - (1) where physical access is not feasible, providing for visual access instead;
    - (2) regulating access by such means as limiting hours of use to daylight hours;
    - (3) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
    - (4) provision of an off-site public access or a fee-in-lieu pursuant to Subsection 5 that allows public access at a site physically separated from, but capable of serving the proposal.
5. Off-site Public Access or Fee-in-Lieu.
- a. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.

- b. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))
6. Design Standards. Trail widths shall be in conformance with the 2009 Upper Valley Trails Plan.
7. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
8. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
9. Roads, Streets, and Alleys. The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
10. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))
11. Conditions of Approval. The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include but are not limited to the following:
  - a. Use materials appropriate to the character and environmental condition;

- b. Include barrier free designs to meet Americans with Disabilities Act;
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
  - d. Provide landscaping;
  - e. Provide signage with the appropriate State, County or City logo and hours of access;
  - f. Establish operation and maintenance responsibilities;
  - g. Identify dedication and recording requirements;
  - h. Determine timing of public access installation in relation to the construction of the proposal; and
  - i. Determine ongoing availability to the public or community for which it is designed
12. View Corridors. The City may condition shoreline development to avoid impacts to view corridors. See Section 5.1 of this SMP. Developments proposing to exceed height limits are subject to a conditional use permit, a view corridor analysis, and demonstration of criteria per Section 7.7.

**13.4.5 Vegetation Conservation**

The following regulations are supplementary to Section 4.5.2 of this SMP.

- A. **Buffers.** Table 13-3 establishes buffers to be measured from the OHWM for uses and developments in each environment designation.

Table 13-3. Shoreline Buffers by Environment Designation for the City of Leavenworth.

<b>Environment Designation</b>	<b>Standard Buffer</b>	<b>Standard Reduced Buffer</b>	<b>Maximum Reduced Buffer</b>
Natural	200'	150'	100'
Urban Conservancy	150'	112.5'	75'
Shoreline Residential	80'	60'	40'
High Intensity	80'	60'	40'

Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See 1-3 below for criteria guiding buffer reductions.

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1. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
  - a. Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved and either criteria 1.b or 1.c is applicable.
  - b. A mitigation plan pursuant to Subsection A.4 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or
  - c. Conditions unique to the site, including existing uses, developments, or topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.
2. Maximum Buffer Reduction.
  - a. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding fifty (50) percent may be approved administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:
    - (1) A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the standard reduced buffer, and the proposed reduced buffer.
    - (2). A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.

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- (3). A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.
    - (4) A mitigation plan as outlined in Section A.4 below.
  - b. The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:
    - (1) Modification of building height or setback standards pursuant to Subsection A.3 would not allow the standard buffer to be achieved.
    - (2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.
    - (3) The applicant's mitigation plan demonstrates that the selected mitigation options in Subsection A.4 achieve an equal or greater protection of ecological functions than the standard buffer.
3. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.
4. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the he applicant

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must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:

<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
<b>Water Related Conditions or Actions</b>		
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	35 percent
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent
4	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
5	Install large woody debris (minimum three pieces), plant and maintain aquatic emergent vegetation (minimum 25 ft <sup>2</sup> ), or restore aquatic substrate (minimum 250 ft <sup>2</sup> ) depending on the	10 percent



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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
	site's particular ecological condition and needs.	
6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
<b>Upland Related Conditions or Actions</b>		
7	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i> .	20 percent
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
9	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

- a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart below as satisfying the requirements of this section, provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement noted in c. below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.
- b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.

- c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.
  - d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
- 5. The design of uses or activities under Subsection 13.4.5.A. shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.
- 6. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water-dependent or public access uses.

**B. Additional Standards.**

- 1. Landscape Standard for New Development, or Expansion. Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:
  - a. The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average fifty (50) percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion

footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.

- b. Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat functions. At least eight (8) trees per 100 linear feet of shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County and the local watershed, and appropriate for the site's particular soil, exposure, and hydrologic conditions.
- c. Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B).
- d. Alternative Compliance with Landscape Standard. Vegetation required by this subsection shall be installed unless the applicant demonstrates one of the following and provides an alternative vegetation plan:
  - (1) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
  - (2) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
  - (3) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area

between the primary structure and the OHWM is encumbered by a utility or public access easement, or other constraining factors; or

- (4) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

These provisions do not apply to those portions of public recreational water-oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water-oriented uses and water-dependent uses. Any impacts to ecological functions must be mitigated.

2. Private physical shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of six (6) feet wide, through the remaining 25 percent of the shoreline buffer. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.
- C. **Mitigation.** All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.
- D. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:
1. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
  2. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on-site.
  3. If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be five (5) feet tall for a conifer and one and three-quarters inches (1  $\frac{3}{4}$ ) caliper for deciduous or broad-leaf evergreen tree.
  4. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.

#### 13.4.6 Water Quality, Stormwater and Nonpoint Pollution

- A. **Policies.** The following policies shall apply in addition to those of Section 4.6.1 of this SMP.

1. Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- B. **Regulations.** The following regulations shall apply in addition to those of Section 4.6.2 of this SMP.
  1. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
  2. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

## **13.5 Shoreline Modifications and Uses**

### **13.5.1 General Upland Shoreline Modification and Use Regulations**

See Section 5.1 of this SMP.

### **13.5.2 General Aquatic Shoreline Modification and Use Regulations**

See Section 5.2 of this SMP.

### **13.5.3 Agriculture**

- A. **Policies.** See Section 5.3.1 of this SMP.
- B. **Regulations.** Agricultural uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.3.2 and 13.3.

### **13.5.4 Aquaculture**

See Section 5.4 of this SMP.

### **13.5.5 Boating Facilities**

See Section 5.5 of this SMP.

### 13.5.6 Breakwaters, Jetties, Groins and Weirs

See Section 5.6 of this SMP.

### 13.5.7 Commercial Development

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.7.1.
1. Encourage the expansion of general retail goods, services, recreational opportunities, and entertainment facilities for area residents (Comprehensive Plan Commercial Goal 1)
  2. Commercial developments should be clustered to provide safe and convenient access for automobiles, pedestrians, and suppliers, and to maintain and enhance the aesthetic quality of the area. (Comprehensive Plan Commercial Goal 1, Policy 2)
  3. Encourage landscaping which provides unity to commercial development and which screens or softens parking lots and unsightly areas, particularly in the transition areas between commercial and residential and recreational land uses. (Comprehensive Plan Commercial Goal 1, Policy 4)
  4. Provide landscaped buffers, walls, open spaces, etc. as needed to minimize noise, screen parking and service areas, rooftop equipment, solid waste receptacles, outdoor storage areas, and other potential impacts and nuisances. (Comprehensive Plan Commercial Goal 1, Policy 6)
  5. Encourage the development of commercial land in a manner which is complementary and compatible with adjacent land uses and the surrounding environment by providing well designed transition or buffer areas. (Comprehensive Plan Commercial Goal 1, Policy 7)
  6. Promote appropriately buffered multi-family residential and/or office development compatible with existing and potential commercial activities to provide a transition between high intensity and low intensity uses. (Comprehensive Plan Commercial Goal 1, Policy 8)
  7. Encourage the development of additional tourist commercial facilities. (Comprehensive Plan Commercial Goal 2)

8. Encourage a pattern of mixed-use development in the commercial areas with residential uses as supportive, secondary development to the primary commercial areas. (Comprehensive Plan Goal 1, Policy 3)
  8. Refine and enhance existing design criteria for buildings and signs, which will lessen the aesthetic impacts of businesses which utilize standard logos and/or building designs. Preserve the unique character and Bavarian design of Leavenworth. (Comprehensive Plan Goal 1, Policy 6)
- B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.7.2 and 13.3.

### **13.5.8 Dredging and Dredge Material Disposal**

See Section 5.8 of this SMP.

### **13.5.9 Fill**

See Section 5.9 of this SMP.

### **13.5.10 Forest Practices**

See Section 5.10 of this SMP.

### **13.5.11 Industry**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.11.1.
1. Encourage the development of water-oriented small light industrial sites with adequate infrastructure (Comprehensive Plan Land Use Element Industrial Goal 1)
  2. New industrial developments should be reviewed as planned industrial developments. (Comprehensive Plan Land Use Element Industrial Goal 1, Policy 1)
- B. **Regulations.** Industrial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.11.2 and 13.3.

### **13.5.12 In-Water Structures**

See Section 5.12 of this SMP.



### **13.5.13 Mining**

See Section 5.13 of this SMP.

### **13.5.14 Private Moorage Facilities**

Docks and private boat launches are prohibited in the City of Leavenworth and its UGA.

### **13.5.15 Recreational Development**

A. **Policies.** The policies below shall apply in addition to the policies of SMP Section 5.15.1.

1. Maintain and/or increase the amount of publicly owned park properties by protecting the existing facilities from land conversions. (Comprehensive Plan Open Space/Recreation Goal 3, Policy 2)
2. Encourage the preservation of areas that are environmentally sensitive or have historic, cultural, or scenic value. (Comprehensive Plan Open Space/Recreation Goal 1, Policy 3)

B. **Regulations.** The regulations of SMP Section 5.15.2 shall apply.

### **13.5.16 Residential Development**

A. **Policies.**

1. Infilling compatible with surrounding neighborhoods should be encouraged on remaining buildable lands within the City of Leavenworth. (Comprehensive Plan Residential Goal 1, Policy 1)  
Encourage the infill of vacant, partially used, and underutilized land in existing residential developments located within urban growth areas.
2. New residential developments within the City of Leavenworth should include provisions for paved streets, curbs, and gutters at the time of development and be consistent with City development standards. (Comprehensive Plan Residential Goal 1, Policy 3)
3. Cluster developments with density mixes should be encouraged in both the City of Leavenworth and the urban growth area. (Comprehensive Plan Residential Goal 2, Policy 1)

- B. **Regulations.** Residential uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.16.2 and 13.3.

**13.5.17 Shoreline Habitat and Natural Systems Enhancement Projects**

See Section 5.17 of this SMP.

**13.5.18 Shoreline Stabilization**

See Section 5.18 of this SMP.

**13.5.19 Transportation and Parking**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.19.1.
  - 1. Maintain and improve the system of collectors, subcollectors, and local streets to serve present and future needs. (Comprehensive Plan Transportation Goal 3)
  - 2. Existing City right-of-way above the minimum right-of-way requirement should be surplus and sold. (Comprehensive Plan Transportation Goal 3, Policy 5)
  - 3. Bicycle, pedestrian, and cross-country ski trails should be recognized and supported for their value as part of the local transportation system (Comprehensive Plan Transportation Goal 4, Policy 6)
- B. **Regulations.** The regulations of SMP Section 5.19.2 shall apply.

**13.5.20 Utilities**

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.20.1.
  - 1. Require effective and timely coordination of all public and private utility trenching activities. (Comprehensive Plan Utility Goal 1, Policy 1)
  - 2. Require the undergrounding of all new electrical distribution and communication lines where reasonably feasible and not a health threat. Encourage the undergrounding of all existing electrical distribution and communication lines where reasonably feasible

and not a health threat. (Comprehensive Plan Utility Goal 1, Policy 2)

3. Encourage the consolidation of utility and communication facilities where reasonably feasible. (Comprehensive Plan Utility Goal 1, Policy3)

B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

## **13.6 Nonconforming Uses and Development Standards**

In addition to the policies of SMP Chapter 6 the following standards shall apply:

### **13.6.1 Establishment**

The burden of establishing that any nonconformity is a legal nonconformity as defined herein shall, in all cases, be upon the owner of such alleged nonconformity and not upon the city. Determination of the nonconforming status of a lot, use, building or structure is an administrative function of the Shoreline Administrator. Property owners asserting existing nonconforming status shall submit such information as the director deems necessary to substantiate or document the claim to the existing nonconformance.

Documentation submitted by the property owner must ascertain the date the nonconformity was established and that it conformed to the applicable SMP regulations in effect at that time. Documentation may consist of such historical items as utility statements, property tax bills, real estate contracts, leases, building permits, dated photographs, newspaper clippings and other relevant documentation, when applicable. Unsubstantiated anecdotal evidence cannot be accepted for the determination of existing nonconforming status.

### **13.6.2 Nonconforming lots of record**

In any district in which single-family dwellings are permitted, a single-family dwelling and allowed accessory buildings may be erected on nonconforming lots of record. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable to the use environment, provided all other current regulations shall apply, including, without limitation, required yards/setbacks, lot coverage, density, parking, storm drainage, landscaping, access and road improvements, variance to these standards shall not be allowed. Nonconforming lots of record which have become more non-conforming due to subsequent action of the owner/s shall still be allowed to develop if they retain more than 75% of the area of the original "lot of record." This is intended to accommodate minor past modifications made to parcels, to allow for infill development and takes into account those adjustments made prior to the time that the City allowed construction on such parcels and

owners were unaware of the ramifications that this could have on the development potential of the lot, if re-assembly is allowed, however no lot re-assembly which creates awkwardly shaped parcels shall be allowed.

### 13.6.3 Nonconforming uses, buildings, structures

- A. **Continuance of Nonconforming uses, buildings, and structures.** A nonconforming use, building and/or structure lawfully established under this SMP and which became or becomes nonconforming by amendment to this SMP may continue as long as it remains otherwise lawful. No nonconforming use, building and/or structure shall be enlarged, increased or extended to occupy a greater area of land, nor shall it be moved in whole or in part to any other portion of the lot or parcel being occupied by such use, at the effective date of the adoption or amendment of this SMP except as provided for in this chapter.
  
- B. **Damaged, demolished or destroyed nonconforming use.** The following provisions shall apply when a nonconforming use is damaged, demolished or destroyed by any means:
  - 1. When a nonconforming use and associated building/structure are damaged by any means, and reconstruction costs do not exceed seventy-five percent of the value of the building/structure (as determined by using a contractor's estimate for reconstruction and the most recent assessed value as stated in the Chelan County assessor's records, or an appraisal submitted by a licensed real estate appraiser), the nonconforming use, building, and/or structure may be replaced or rebuilt as it was immediately prior to the damage, or in a manner that is more conforming. No replacement or reconstruction of a nonconforming building/structure shall be performed without issuance of a development permit(s) as appropriate. The property owner shall provide the information necessary to reasonably assure the Shoreline Administrator that the replacement or reconstruction complies with this section. The review authority may approve replacement or reconstruction in conformance with the submitted and verifiable plans or in a manner that is more conforming to the applicable provisions of this SMP and the use environment in which the building/structure is located. The proposed replacement or reconstruction cannot be completed in such a manner as to constitute an expansion of the nonconforming use, building and /or structure.
  
  - 2. Provisions contained within this section do not supersede or relieve a property owner from compliance with the requirements

of the uniform building and fire codes, and the provisions of the development regulations that are beyond the specific nonconformance addressed by this SMP.

- C. **Single-family residential dwellings lawfully permitted and established within a commercial district.** Single-family residential dwellings lawfully permitted and established within a commercial district prior to adoption or amendment of this chapter may be maintained, repaired or reconstructed in accordance with the provisions of this SMP, provided the dwelling meets City zoning requirements. Additionally, accessory buildings which are allowed with single-family residences may be erected provided the following conditions and/or regulations are complied with:
1. The structure(s) shall meet the applicable provisions of LMC Chapter 18.20 and LMC Chapter 18.24; and
  2. The single-family residence has not been converted to a more conforming, nonresidential use at any previous time.
- D. **Effect of the sale or transfer of a nonconforming use or building/structure.** The sale or transfer of a nonconforming use or building/structure does not alone affect the right to continue the nonconforming use or use of a nonconforming building/structure.
- E. **Abatement of buildings/structures, lots, required improvements, uses and/or developments not legally established.** Buildings/structures, lots, required improvements, uses and/or developments which were not legally established or not legally existing as of the effective date of this SMP retain their illegal status and must be abated or fully conform and comply with the procedural and substantive provisions of this SMP.
- F. **“Nonconforming Use” terminology.** The term “nonconforming use” refers only to the single existing use and does not include all uses which the property could have been used for under a prior zoning ordinance or zoning classification.
- G. **Normal structural repair and maintenance of nonconforming building/structure.** Nothing in this chapter shall be construed to restrict normal structural repair and maintenance of a nonconforming building/structure, including the replacement of walls, fixtures, and plumbing, provided that the value of work and materials in any twelve-month period does not exceed twenty-five percent of the assessed value of the building/structure, as described in Section 13.6.3(B)(1), prior to such work.

- H. **Limitations on expansion of nonconforming structures.** Expansions of structures that are nonconforming with respect to a required yard may not encroach any further into the required yard, and are limited to extensions adding no more than twenty-five percent of the length of the original wall as it existed prior to SMP adoption, subject to other applicable requirements of City development regulations. Nothing in this section will prohibit vertical expansion in the side or rear yards up to the height allowed in the applicable use environment, provided all other applicable requirements of City development regulations are met. Nothing in this section will prohibit vertical expansion in the front yard up to the height allowed in the applicable zoning district if the portion of the nonconforming structure to be expanded is fifteen feet or greater from the property line. If the portion of the nonconforming structure to be expanded is less than fifteen feet from the front property line, that portion of the structure can be extended vertically up to twenty-five percent of the existing height of the structure, provided all other applicable requirements of the City development regulations are met.

#### 13.6.4 Discontinuance

- A. **Conditions under which nonconforming use, building, and/or structure discontinued.** A nonconforming use, building, and/or structure shall be discontinued when it is:
1. Succeeded by another use, building, and/or structure that is more conforming; or
  2. Discontinued and not re-established within one year; or
  3. Damaged, demolished, removed or destroyed, by any means, to the extent that replacement and/or reconstruction costs exceed seventy-five percent of its value as described in Section 13.6.3(B)(1) and when a complete application for such replacement and/or reconstruction is not made within one year of such damage.
- B. **Nonconforming use ceases to exist when discontinued.** When a nonconforming use becomes discontinued as defined above, it shall be deemed that such use has ceased to exist and thus loses its status as a legal nonconforming use. Any subsequent use shall conform to the provisions of this SMP.

### **13.6.5 Nonconforming Signs**

Existing nonconforming signs as defined in the SMP are permitted, but shall be removed or brought into compliance with the SMP, as amended, any time the basic design, size, color or structure of the sign is altered, unless the proposed alteration renders the sign more in compliance with the SMP and the cost of the alteration is less than 50 percent of the replacement value of the sign. Signs damaged or altered, in any manner, by more than 50 percent of their replacement value shall be replaced with a sign that meets the requirements of the SMP.

## **13.7 Shoreline Permits, Procedures and Administration**

### **13.7.1 Roles and Responsibilities**

- A. The Shoreline Master Program Administrator in the City of Leavenworth is the Planning Director and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act.
- B. In the City of Leavenworth, the Hearing Examiner shall have the authority to grant or deny Shoreline Substantial Development Permits, time extensions to shoreline permits, revisions, Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- C. The Leavenworth City Council shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the City of Leavenworth Planning Commission.
- D. The City of Leavenworth Planning Commission shall make recommendations for amendments of this SMP to the Leavenworth City Council.

### **13.7.2 Interpretation**

The Administrator shall provide administrative interpretations in accordance with Leavenworth Municipal Code Section 21.03.020.

### **13.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in the City of Leavenworth shall be in accordance with Leavenworth Municipal Code Chapter 21.07

- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

#### **13.7.4 Application Requirements**

- A. Chapter 21.05 of the Leavenworth Municipal Code provides the minimum application requirements and codifies the form upon which the application must be submitted.
- B. See Section 7.4 of this SMP for the minimum application requirements listed in WAC 173-27-180 and additional application requirements of this SMP.

#### **13.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.

#### **13.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

#### **13.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

#### **13.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

#### **13.7.9 Permit Conditions**

See Section 7.9 of this SMP.

#### **13.7.10 Duration of Permits**

See Section 7.10 of this SMP.

#### **13.7.11 Initiation of Development**

See Section 7.11 of this SMP.

#### **13.7.12 Review Process**

- A. The application shall be reviewed by the City in accordance with Leavenworth Municipal Code Chapter 21.07.
- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the City.



**13.7.13 Appeals**

- A. See Section 7.13 of this SMP.
- B. In addition, for administrative appeals, see Leavenworth Municipal Code Chapter 21.11.

**13.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

**13.8 Definitions**

See Chapter 8 of this SMP.



# 14 WENATCHEE

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## 14.1 Authority and Purpose

See Chapter 1 of this SMP.

## 14.2 Goals and Objectives

In addition to the goals and objectives of Chapter 2 of this SMP, the following goals shall apply:

**Goal Wenatchee PA-1.** Goal Expand opportunities for public enjoyment of shoreline access. (Shoreline Use and Access Goal)

**Goal Wenatchee PA-2.** Preserve and enhance Wenatchee's system of waterfront park and trails. (Waterfront Plan Goal)

**Goal Wenatchee CONS-1.** Upgrade the environmental quality of the shoreline and larger waterfront area. (Waterfront Plan Goal)

**Goal Wenatchee LU-1.** Encourage positive redevelopment that enhances the community's most precious resource – its waterfront. (Comprehensive Plan Land Use and UGA Goal)

## 14.3 Shoreline Jurisdiction and Environment Designations

### 14.3.1 Shoreline Jurisdiction

The City of Wenatchee contains two shorelines: the Columbia River and the Wenatchee River. Both waterbodies are a Shoreline of Statewide Significance. See Section 3.1 of this SMP.

### 14.3.2 Environment Designations

#### A. Natural

##### A.1 Purpose

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

**A.2 Designation Criteria**

A "Natural" environment designation will be assigned to shoreline areas that are ecologically intact and therefore currently perform an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity; represent ecosystems and geologic types that are of particular scientific and educational interest; or are unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, and ecologically intact shoreline habitats. "Natural" environment designations are typically free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies.

**A.3 Management Policies**

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

- A. Any use that would substantially degrade the ecological functions or natural character of the shoreline area should be prohibited.
- B. The following new uses should not be allowed in the "Natural" environment:
  - 1. commercial uses;
  - 2. industrial uses;
  - 3. nonwater-oriented recreation;
  - 4. and roads, utility corridors and parking areas that can be located outside of "Natural" environment designated shorelines.
- C. Access may be permitted for scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational uses that do not impact ecological functions.
- D. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions is prohibited. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological

functions is not allowed. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

- E. Single-family residential development may be allowed as a conditional use within the "Natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

**B. Urban Conservancy**

**B.1 Purpose**

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

**B.2 Designation Criteria**

An "Urban Conservancy" environment designation will be assigned to shorelines that are within areas planned for development that are compatible with maintaining or restoring the ecological functions of the area, and that are not generally suitable for water-dependent uses other than those uses that support public access and recreation that are suitable for water-related or water-enjoyment uses; that may be designated as open space, floodplain or other sensitive areas that should not be more intensively developed; and those that retain important ecological functions, even though partially developed.

**B.3 Management Policies**

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

- A. Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
- B. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "Urban Conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

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- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

### **C. Shoreline Residential**

#### **C.1 Purpose**

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

#### **C.2 Designation Criteria**

A "Shoreline Residential" environment designation will be assigned to shorelands if they are predominantly single-family or multi-family residential development or are planned for residential development.

#### **C.3 Management Policies**

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

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

- F. Multi-family and multi-lot residential and recreational developments should provide public access to the shoreline and joint-use community recreational facilities.
- G. New residential development should be located and designed so that future shoreline stabilization is not required.

**D. Waterfront**

**D.1 Purpose**

The purpose of the "Waterfront" environment is to accommodate water-oriented and other commercial and recreational uses, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. The designation promotes a balance of waterfront public access, shoreline restoration, and water-oriented business development, all of which are linked with and complement existing public space and water-dependent uses currently utilizing the shoreline frontage.

**D.2 Designation Criteria**

A "Waterfront" environment designation will be assigned to those shorelands located within portions of the City's waterfront mixed use zone that are compatible with water-oriented and other mixed, commercial or residential uses. Most of these areas are located upland of waterfront property managed for public access, public recreation, and habitat.

**D.3 Management Policies**

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

- A. In the Waterfront environment, first priority should be given to water-oriented uses, while protecting existing ecological functions and encouraging restoration of ecological function in areas that have been previously degraded. Nonwater-oriented uses may also be allowed where they do not conflict with or limit opportunities for water-oriented uses, or on sites where there is no direct access to the shoreline.
- B. Developments in the Waterfront environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, including recreation.
- C. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
- D. New developments should provide public access to the shoreline.

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- E. Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- F. Development standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.
- G. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- H. New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
- I. New industrial uses are discouraged in the Waterfront environment.

### **E. High Intensity**

#### **E.1 Purpose**

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

#### **E.2 Designation Criteria**

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

#### **E.3 Management Policies**

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

- A. In the High Intensity environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline, but only if identified in shoreline use



analysis or through special area planning as described in WAC 173-26-201(3)(d)(ix).

- B. Developments in the High Intensity environment should be managed so that they enhance and maintain the shorelines for a variety of urban uses, with priority given to water-dependent, water-related, and water-enjoyment uses.
- C. Where feasible, visual and physical shoreline public access should be required as provided for in Sections 4.4 and 14.4.4 of this SMP.
- D. Aesthetic objectives should be actively implemented in development proposals and should be in compliance with sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
- E. No net loss of shoreline ecological functions shall occur as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- F. Full utilization of existing urban areas should be achieved before considering expanding this environment designation through future SMP amendments. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "High Intensity." During an analysis of shoreline uses, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas. In order to make maximum use of the available shoreline resource and to accommodate future water-oriented uses, shoreline restoration and/or public access, the redevelopment and renewal of substandard, degraded, obsolete urban shoreline areas should be encouraged.
- G. The City has estimated economic development potential of its community as part of its waterfront planning efforts, and this provides an indication of utilization of urban areas. The City should update this analysis as part of its seven-year review of the SMP.
- H. In contrast to the Waterfront designation, this High Intensity designation allows industrial uses when meeting aesthetic, visual, ecological and other management principles.

**F. Aquatic**

**F.1 Purpose**

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

**F.2 Designation Criteria**

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

**F.3 Management Policies**

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

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

**G. Use Matrix and Development Standards**

- A. Table 14-1 indicates which uses and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment. Accessory uses shall be subject to the same shoreline permit process and

SMP provisions as its primary use. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall apply.

- B. An accessory use shall not be established on a property prior to the establishment of its primary use.
- C. Authorized uses and modifications are only allowed in shoreline jurisdiction where the underlying zoning allows for it and subject to the policies and regulations of this SMP.
- D. Any use, development or modification not classified in the Shoreline Master Program within Chapter 14 or listed below shall require a Conditional Use Permit.
- E. Uses and modifications identified as “Permitted” may require either a Substantial Development Permit or may be exempt from the requirement to obtain a Substantial Development Permit, as outlined in the definition of *Substantial Development* included in Chapter 8, Definitions. Exempted uses and modifications, however, are not exempt from the Act or this SMP, and must be consistent with the applicable policies and provisions.
- F. If any part of a proposed development is not eligible for exemption, then a Shoreline Permit is required for the entire proposed development project.
- G. A development or use that is listed as a Conditional Use pursuant to this SMP or is an unlisted use, must obtain a Conditional Use Permit even though the development or use does not require a Substantial Development Permit.
- H. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, shoreline development standards regarding shoreline buffers, lot frontage, side setbacks, and height are provided in Table 14-2. In addition, shoreline developments shall comply with all density, lot area, setback and other dimensional requirements of the responsible local government zoning and subdivision codes.
- I. When a development or use is proposed that does not comply with the shoreline buffer, lot frontage, side yard setback, and other dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Variance. Departures from the maximum height limit shall be subject to approval of

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a Shoreline Conditional Use Permit, including a view corridor analysis and demonstration that criteria are met consistent with Section 7.7.

- J. Except as otherwise stated, in addition to this SMP, the responsible local government comprehensive plan, zoning regulations, subdivision regulations, health regulations, and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this SMP conflict with provisions of other responsible local government regulations, the more protective of shoreline resources shall prevail.
- K. Where a use or modification may occur in the Aquatic environment as indicated in Table 14-1 and in the corresponding regulations for that use, the more restrictive permit process or prohibition on that use as may be indicated for the adjacent shoreland environment applies to that use in the Aquatic environment.
- L. The permit processes indicated below for each use or modification apply to new, expanded, modified or replacement uses and modifications. For those uses and modifications that meet one of the exemptions outlined in Section 7.6.3, Exemptions, a Shoreline Permit is not required if Table 14-1 indicates "SD/E." However, if "CU" is listed for the use or modification, that use or modification is not eligible for an exemption.
- M. The City's height standards in Table 14-2 for the Waterfront and High Intensity environment designations recognize the following factors:
  - 1. The City's shoreline area is largely in use for shoreline recreation.
  - 2. There is minimal private ownership in much of the shoreline jurisdiction, particularly in the downtown vicinity. There are few homes adjoining much of shoreline jurisdiction given the commercial and industrial nature of most of the City's shoreline particularly along the Columbia River.
  - 3. The few homes that are in proximity to the shoreline jurisdiction are non-conforming with respect to zoning and will transition to other non-single family uses. The current views from the scattered homes do not include a view of the shoreline due to existing intervening buildings, railroad tracks, and vegetation.

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Table 14-1. Shoreline Use and Modification Matrix for the City of Wenatchee.

The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 14; otherwise prohibited -- = Not applicable	Natural	Urban Conservancy	Shoreline Residential	Waterfront	High Intensity	Aquatic
Agriculture	X	X	SD/E	X	X	X
Aquaculture	X	CU	X	SD/E	SD/E	SD/E
<b>Boating Facilities: Marinas and Boat Launches</b>						
Community piers	X	SD/E	SD/E	SD/E	SD/E	SD/E
Marinas and commercial piers	X	SD/E	X	SD/E	SD/E	SD/E
Public boat launch	X	SD/E	CU	SD/E	SD/E	SD/E
Private commercial boat launch	X	X	X	SD/E	SD/E	SD/E
Private community boat launch	X	X	CU	CU	CU	SD/E
Breakwaters/jetties/rock weirs/groins	X	CU	CU	CU	CU	CU <sup>1</sup>
<b>Commercial Uses</b>						
Water-dependent uses	X	CU	X	SD/E	SD/E	CU
Water-related	X	CU	X	SD/E	SD/E	X
Water-enjoyment uses	X	CU	X	SD/E	SD/E	X
Nonwater-oriented uses	X	CU(-)	X	SD/E(-)	SD/E(-)	X
Mixed use commercial	X	CU	X	SD/E	SD/E	X
Mixed use residential	X	CU	X	SD/E(-)	X	CU
<b>Dredging and dredge materials disposal</b>						
Dredging	--	--	--	--	--	SD/E(-)
In-water disposal	--	--	--	--	--	CU
Upland disposal outside of CMZ/ floodplain	X	CU	SD/E	SD/E	SD/E	--
Upland disposal inside of CMZ/ floodplain	X	CU	CU	CU	CU	--
<b>Fill</b>						
Upland outside of CMZ/ floodplain	X	SD/E	SD/E	SD/E	SD/E	--
Upland inside of CMZ/ floodplain	X	CU	CU	CU	CU	--
In-water restoration	--	--	--	--	--	SD/E
In-water non-restoration	--	--	--	--	--	CU

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The chart is coded according to the following legend. SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit (-) = Subject to use limitations in Chapters 4 & 5 and Chapter 14; otherwise prohibited -- = Not applicable	Natural	Urban Conservancy	Shoreline Residential	Waterfront	High Intensity	Aquatic
Forest Practices	X	X	X	X	X	X
<b>Industrial Uses</b>						
Water-dependent uses	X	CU	X	X	CU	CU
Water-related uses	X	CU	X	X	CU	X
Nonwater-oriented uses	X	CU(-)	X	X	CU(-)	X
<b>Institutional<sup>2</sup></b>						
Water-oriented	CU	CU	CU	CU	CU	CU
Nonwater-oriented	CU(-)	CU(-)	CU(-)	CU(-)	CU(-)	X
In-Water Structures	CU	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Mining</b>						
Upland mining outside of CMZ/floodplain	X	X	X	X	X	--
Upland mining inside of CMZ/floodplain	X	X	X	X	X	--
In-water mining (commercial)	--	--	--	--	--	CU
In-water mining (recreational)	--	--	--	--	--	SD/E(-)
Private Moorage Facilities	X	X	X	X	X	X
<b>Recreational Uses<sup>2</sup></b>						
Water-dependent	CU	SD/E	CU	SD/E	SD/E	SD/E
Water-related	CU	SD/E	CU	SD/E	SD/E	SD/E
Water-enjoyment	CU	SD/E	CU	SD/E	SD/E	SD/E
Nonwater-oriented	X	X	X	X	X	X
<b>Residential Uses</b>						
Single-family/Duplex	CU	SD/E	SD/E	CU	X	X
Multi-family	X	CU	SD/E	SD/E	X	X
Over-water	X	X	X	X	X	X
Floating	--	--	--	--	--	X
Liveaboards	--	--	--	--	--	X
Shoreline habitat and natural systems enhancement projects	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E
<b>Shoreline Stabilization</b>						
Bioengineering	SD/E	SD/E	SD/E	SD/E	SD/E	SD/E
Hard structural shoreline stabilization	X	CU	CU	CU	CU	CU

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<p>The chart is coded according to the following legend.</p> <p>SD/E = Permitted, may be subject to Shoreline Substantial Development Permit or shoreline exemption requirements</p> <p>CU = Conditional Use</p> <p>X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit</p> <p>(-) = Subject to use limitations in Chapters 4 &amp; 5 and Chapter 14; otherwise prohibited</p> <p>-- = Not applicable</p>	<b>Natural</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront</b>	<b>High Intensity</b>	<b>Aquatic</b>	
	Soft structural shoreline stabilization	CU	SD/E	SD/E	SD/E	SD/E	SD/E
	Dikes, levees	X	CU	CU	CU	CU	--
	<b>Transportation and Parking</b>						
	Local	CU	SD/E(-)	SD/E(-)	SD/E(-)	SD/E(-)	CU
	Regional	CU	CU	CU	CU	CU	CU
	<b>Utilities</b>						
Local	CU	SD/E	SD/E	SD/E	SD/E	CU	
Regional	CU	CU	CU	CU	CU	CU	

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

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

Table 14-2. Shoreline Development Standards Matrix for the City of Wenatchee.

<b>Standard</b>	<b>Natural</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront</b>	<b>High Intensity</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable TBD = To be Determined						
Shoreline Buffer – All Uses	See Section 14.4.5 of this SMP.					
Shoreline Lot Frontage Minimum – Residential <sup>37</sup>	80	60	45	0	40	n/a
Side Yard Setback Minimum – Residential <sup>38</sup>	5	5	5	0	n/a	n/a

<sup>37</sup> Shoreline frontages are based on the zoning code, though some of the underlying zones do not have lot width standards. 80 feet is based on Residential Single Family lot width; 60 feet is based on the Residential Moderate lot width, and 45 feet is based on the Residential High standard. The City’s shorelines are unlikely to see much new subdivision activity; however this may be worth discussing during SMP review.

<sup>38</sup> The City’s residential side setbacks generally range from 5 to 6 feet in the zoning code, except in the Waterfront Mixed Use zone they are zero.

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<b>Standard</b>	<b>Natural</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>Waterfront</b>	<b>High Intensity</b>	<b>Aquatic</b>
Note: All dimensions are in feet. n/a = not applicable TBD = To be Determined						
Height Limit Maximum <sup>39</sup>	35	35	30/60 <sup>1</sup>	30/50 <sup>2</sup>	90	35

<sup>1</sup>The lower range applies to single-family dwellings while the upper range applies to multi-family developments. In the case of multifamily developments heights above 35 feet require a visual study per section N.

<sup>2</sup>The lower range applies to residential uses while the upper range applies to commercial/mixed use.

N. In the case of multifamily development in the Shoreline Residential zone, in order to allow heights to 60 feet consistent with underlying zoning, the following steps are required:

1. The applicant shall prepare a view analysis conducted consistent with Section 7.4. The analysis shall address such considerations as cumulative view obstruction within a 1,000-foot radius with implementation of the proposed development combined with those of other developments that exceed 35 feet in height. The cumulative impact analysis shall address overall views that are lost, compromised, and/or retained; available view corridors; and surface water views lost, compromised, and/or retained.
2. Building or structures heights between 35 feet and 60 feet may be allowed as part of a Substantial Development Permit if the following criteria are affirmatively met:
  - a. The building or structure will not impact a substantial number of residences. The applicant shall review residences involved on or in an area adjoining the project area.
  - b. 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% of the view of the

<sup>39</sup> The City's height limits vary greatly. Residential Single Family and Moderate zones are 30 feet; Residential High is 60 feet; Industrial is 90 feet; Waterfront Mixed Use 30 feet residential and 50 feet commercial/mixed use. The City believes there are overriding considerations and few residences that would be affected by a greater height in Waterfront Mixed Use and Industrial zones.



shoreline enjoyed by a substantial number of residences on areas adjoining such shorelines.

### **14.3.3 Shoreline Use Preferences**

See Section 3.3 of this SMP.

### **14.3.4 Shorelines of Statewide Significance**

See Section 3.4 of this SMP.

In the City of Wenatchee, the Wenatchee River and the Columbia River are Shorelines of Statewide Significance.

## **14.4 General Policies and Regulations**

### **14.4.1 Archaeological and Historic Resources**

See Section 4.1 of this SMP.

### **14.4.2 Ecological Protection and Critical Areas**

See Section 4.2 and Appendix B of this SMP.

### **14.4.3 Flood Hazard Reduction**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.3.1:

1. The City should designate within the UGA, channel migration zone areas and frequently flooded areas in accordance with Federal Emergency Management Act (FEMA) criteria. (Critical Areas Policy 4)

B. **Regulations.** See Section 4.3.2 and Appendix B of this SMP.

### **14.4.4 Public Access**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 4.4.1:

1. The City of Wenatchee should acquire shoreline property whenever it meets the current and future needs for public recreation access. (Comprehensive Plan Shoreline Use and Access Policy 1)
2. The City of Wenatchee should recognize that the Wenatchee waterfront is a unique regional recreational resource. (Comprehensive Plan Shoreline Use and Access Policy 2)

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3. The City of Wenatchee should provide visual access to the water whenever possible. Develop viewpoints where the topography prevents direct access. (Comprehensive Plan Shoreline Use and Access Policy 3)
4. The City of Wenatchee should develop and use waterfront parks for activities and interests specifically related to the shoreline environment. (Comprehensive Plan Shoreline Use and Access Policy 4)
5. The City of Wenatchee should provide opportunities for walking and visits where terrain and shore conditions permit public access. (Comprehensive Plan Shoreline Use and Access Policy 5)
6. The City of Wenatchee should implement the adopted Waterfront Sub Area Plan policies and projects for parks, trails, and public access. (Comprehensive Plan Shoreline Use and Access Policy 4)
7. The City of Wenatchee should encourage environmental education, learning opportunities and partnerships for shoreline and habitat opportunities. (Parks Plan 2006)
8. The City of Wenatchee should protect the environmental integrity of the waterfront trail and park. Specifically:
  - a. Minimize the loss of open space and landscaped areas within the park.
  - b. Expand and improve the waterfront trail, where necessary, to support usage and minimize conflicts between different types of users.
  - c. Design park improvements to complement and enhance surrounding park features. (Wenatchee Waterfront Subarea Plan)
9. The City of Wenatchee should enhance waterfront activities and amenities. (Wenatchee Waterfront Subarea Plan)

- B. **Regulations.** The following regulations are supplementary to Section 4.4.2 of this SMP.

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1. The City's shoreline public access plan provides for a connected network of parks and open space connected by trails. The City's public access planning process provided in Appendix G provides more effective public access than individual project requirements for public access, as provided for in WAC 173-26-221(4)(d)(iii)(A). The City shall review shoreline developments for consistency with the Shoreline Public Access Plan in Appendix G.
2. Public and recreation shoreline uses and activities. Shoreline public access shall be required for the following public and recreation shoreline uses and activities:
  - a. Shoreline recreation pursuant to Section 5.15; (WAC 173-26-241(3)(i))
  - b. New structural public flood hazard reduction measures, such as dikes and levees; (WAC 173-26-221 (3) (c) (iv))
  - c. Shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts; and (WAC 173-26-221 (4) (d) (ii))
  - d. New marinas when water-enjoyment uses are associated with the marina. (WAC 173-26-241(3)(c))
3. Private development.
  - a. Developments located in the underlying Wenatchee Waterfront Mixed Use Zoning District shall provide public access as follows: Public pedestrian access onto the development sites from adjacent public streets shall be provided. An internal sidewalk or pathway system that enhances public pedestrian access to the waterfront shall be provided at a minimum width of five feet.<sup>40</sup>
  - b. Except for single family dwellings and duplexes not part of a broader development, all development shall provide pedestrian access to primary building entrances from adjacent public streets. An internal sidewalk or pathway system, at least five feet in width, that enhances pedestrian access within and through the site shall be provided,

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<sup>40</sup> Based on WCC 10.32.060(6).

including from designated parking areas to primary building entrances.<sup>41</sup>

- c. Shoreline public access shall be required in shoreline public access gap areas identified in the *City of Wenatchee Parks, Recreation & Open Space Plan* for the following types of shoreline land uses and activities:
  - i. Residential subdivisions creating five or more lots or multifamily developments of five or more units; and/or (WAC 173-26-221(4)(d)(iii))
  - ii. Nonwater-oriented commercial uses; and/or (WAC 173-26-241(3)(d))
  - iii. Nonwater-oriented industrial uses. (WAC 173-26-241(3)(f))
  
- 4. Exceptions: Public access shall not be required if an applicant/proponent demonstrates to the satisfaction of the City at least two of the criteria a through g are met and that alternatives have been considered per criteria h. (based on WAC 173-26-221(4)(d)(iii))
  - a. The development consists of less than five dwellings or lots;
  - b. Unavoidable health or safety hazards to the public exist and cannot be prevented by any practical means;
  - c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - d. Significant environmental impacts will result from the public access that cannot be mitigated;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated;
  - f. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as

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<sup>41</sup> Based on WCC 10.48.090.

highways, railroads, existing structures, or similar significant intervening improvements, and public access is not desirable or feasible;

- g. Based on the shoreline public access plan in Appendix G, adequate public access already exists along the subject shoreline or is planned in adopted local government shoreline public access plans and there are no gaps or enhancements required to be addressed;
  - h. Except in the case of 4a and 4g, all feasible alternatives have been exhausted, including, but not limited to:
    - (1) where physical access is not feasible, providing for visual access instead;
    - (2) regulating access by such means as limiting hours of use to daylight hours;
    - (3) designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc; or
    - (4) provision of an off-site public access or a fee-in-lieu pursuant to Subsection 5 that allows public access at a site physically separated from, but capable of serving the proposal.
5. Off-site Public Access or Fee-in-Lieu.
- a. Off-site public access may be permitted by the City where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment, or feasibility are present. Off-site public access may be visual or physical in nature. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with City standards; providing, improving or enhancing public access on another property under the control of the applicant/proponent; or another equivalent measure.
  - b. Instead of on-site or off-site public access improvements, the City may require or an applicant may propose a fee-in-

lieu. A fee-in-lieu may be assessed through the SEPA process or RCW 82.02.020, where appropriate, such as where the off-site improvement is best accomplished by the City at a later date or better implements the City's Shoreline Public Access Plan in Appendix G. The cost of providing the off-site public access shall be proportionate to the total long-term cost of the proposed development. The fee-in-lieu agreements or mitigation measures shall address the responsibility and cost for operation and maintenance. (based on WAC 173-26-221(4)(d)(iii))

6. Design Standards. Public access shall be designed in accordance with City of Wenatchee Parks and Recreation Department Park Design Standards and Development Policies.
7. Width of Trails.
  - a. Primary Trails. A primary trail is paved and has a minimum improved surface width of 10 feet with a one foot clear area on each side of the paved surface.
  - b. Secondary Trails. A secondary trail has a minimum paved width of 8 feet with an additional one foot clear area on each side.
8. Buffering Private Property. Public access facilities shall be compatible with adjacent private properties through the use of buffering or other techniques to define the separation between public and private space, including by not limited to: natural elements such as logs, vegetation, and elevation separations.
9. Connectivity. Physical public access shall be designed to connect to existing or future public access features on adjacent or abutting properties, or shall connect to existing public rights-of-way, consistent with design and safety standards.
10. Roads, Streets, and Alleys. The City may not vacate any road, street, or alley abutting a body of water except as provided under RCW 35.79.035.
11. Environmental Protection. Public access shall be designed to achieve no net loss of ecological functions. Where impacts are identified, mitigation shall be required. (WAC 173-26-221(4)(d)(iv))

12. Conditions of Approval. The City may condition public access proposals to ensure compatibility with the Shoreline Public Access Plan in Appendix G, compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, compatibility with adjacent properties. Conditions may include but are not limited to the following:
  - a. Use materials appropriate to the character and environmental condition;
  - b. Include barrier free designs to meet Americans with Disabilities Act;
  - c. Provide auxiliary facilities such as parking, restrooms, refuse containers or other amenities;
  - d. Provide landscaping;
  - e. Provide signage with the appropriate State, County or City logo and hours of access;
  - f. Establish operation and maintenance responsibilities;
  - g. Identify dedication and recording requirements;
  - h. Determine timing of public access installation in relation to the construction of the proposal; and
  - i. Determine ongoing availability to the public or community for which it is designed.

#### 14.4.5 Vegetation Conservation

- A. **Policies.** The following policies are supplementary to Section 4.5.1 of this SMP.
  1. Provide shoreline enhancement, where necessary, to control invasive, non-native plants that are taking over the shoreline. (Waterfront Plan Policy)
  2. Improve the quality of riparian vegetation. (Waterfront Plan Policy)
- B. **Regulations.** The following regulations are supplementary to Section 4.5.2 of this SMP.

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1. Required Buffers. Table 14-3 establishes buffers to be measured from the OHWM for uses and developments in each environment designation.

Table 14-3. Shoreline Buffers by Environment Designation for the City of Wenatchee.

<b>Environment Designation</b>	<b>Standard Buffer</b>	<b>Reduced Buffer</b>	<b>Maximum Reduced Buffer</b>
Natural	200'	150'	100'
Urban Conservancy	150'	112.5'	75'
Shoreline Residential	100'	80'	50'
Waterfront and High Intensity	150'	112.5'	75'

Note: When environment designations are parallel, the buffer of the waterward environment extends only to the upland edge of that environment. The buffer for the landward environment would apply to uses and modifications in that upland environment. See B.2-B.5 below for criteria guiding buffer reductions.

2. Standard Buffer Reduction. Reductions of up to twenty-five (25) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that:
  - a. Modification of building height or setback standards pursuant to Subsection B.4 would not allow the standard buffer to be achieved and either criteria 2.b or 2.c is applicable.
  - b. A mitigation plan pursuant to Subsection B.5 indicates that enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer; or
  - c. Conditions unique to the site, including existing uses, developments, or topographic barriers, exist between the proposed development and the OHWM, which substantially prevent or impair delivery of most riparian functions from the subject upland property to the waterbody.
3. Maximum Buffer Reduction.
  - a. If the applicant can demonstrate that a use cannot be accommodated or accomplished outside of the standard or standard reduced buffer, a reduction in the buffer width not exceeding 50 percent may be approved



administratively. The applicant must demonstrate need for any buffer reduction greater than 25 percent by submitting the following:

- (1) A site plan showing clearly the boundaries of the parcel, shoreline jurisdiction, the standard buffer, the standard reduced buffer, and the proposed reduced buffer.
  - (2). A narrative description of the design alternatives considered as part of each mitigation sequencing step outlined in Section 4.2.2.A, and how the applicant's proposal incorporates mitigation sequencing to the maximum extent practicable.
  - (3). A narrative description of the spatial needs of the proposed use. Adequate space for a single-family residence and associated yard is considered to be available when the buildable lot depth after application of either the standard buffer or standard reduced buffer is seventy (70) feet or greater. For other uses, the Shoreline Administrator will decide what the minimum space requirements are based on the information provided by the applicant.
  - (4) A mitigation plan as outlined in Section B.5 below.
- b. The Shoreline Administrator may approve a maximum buffer reduction according to the following review criteria:
- (1) Modification of building height or setback standards pursuant to Subsection B.4 would not allow the standard buffer to be achieved.
  - (2) The applicant has demonstrated a hardship whereby the proposed use could not be accommodated without a reduced buffer, and the approved buffer reduction is no more than that necessary to accommodate the proposed shoreline use.
  - (3) The applicant's mitigation plan demonstrates that the selected mitigation options in Subsection B.5

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achieve an equal or greater protection of ecological functions than the standard buffer.

4. Modification of height or other setback standards. The City may allow an increase in height above applicable SMP height standards (as allowed by Section 5.1.2.E) or property setback standards if those actions will reduce or eliminate the need for the buffer reduction. These modifications of standards may be approved without a Shoreline Conditional Use Permit or a Shoreline Variance if the modification is consistent with underlying zoning regulations and is not anticipated to have adverse impacts on adjacent properties.

<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
<b>Water Related Conditions or Actions</b>		
1	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 75 percent of the linear shoreline frontage of the subject property. This can include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and substrate composition. This option cannot be used in conjunction with Option 2 below.	35 percent
2	Presence of non-structural or soft structural shoreline stabilization measures located at, below, or within 5 feet landward of the OHWM along at least 25 percent of the linear shoreline frontage of the subject property. This may include the removal of an existing hard structural shoreline stabilization measure and subsequent restoration of the shoreline to a natural or semi-natural state, including creation or enhancement of nearshore shallow-water habitat, beach/substrate composition. This option cannot be used in conjunction with Option 1 above.	20 percent
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for native fish for a minimum of 25 feet in length. Opened watercourses must be provided with a native planted buffer at least 10 feet wide on both side of the stream, and must not encumber adjacent properties without express written permission of the adjacent property owner. A qualified professional must design opened watercourses. The opened watercourse shall be exempt from the buffer requirements and standards of Appendix B.	15 percent
4	Existing hard structural shoreline stabilization measures are setback from the OHWM more than five (5) feet and/are sloped at a maximum 3 vertical (v): 1 horizontal (h) angle to provide dissipation of wave energy and increase the quality or quantity of nearshore habitat.	20 percent
5	Install large woody debris (minimum three pieces), plant and	10 percent

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<b>Shoreline Setback Reduction Options</b>		<b>Reduction Allowance</b>
	maintain aquatic emergent vegetation (minimum 25 ft <sup>2</sup> ), or restore aquatic substrate (minimum 250 ft <sup>2</sup> ) depending on the site's particular ecological condition and needs.	
6	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent
<b>Upland Related Conditions or Actions</b>		
7	Installation of biofiltration/infiltration mechanisms in lieu of piped discharge to the shoreline waterbody, such as mechanisms that infiltrate or disperse surface water on the surface of the subject property. These mechanisms shall be sized to store a minimum of 70% of the annual volume of runoff water from the subject property, for sites with poor soils, or 99% of the annual volume of runoff water from the subject property, for sites with well-draining soils. This mechanism shall apply to sites where the total new or replaced impervious surface is less than or equal to 5,000 square feet. The mechanisms shall be designed to meet the requirements of Ecology's <i>Stormwater Management Manual for Eastern Washington</i> .	20 percent
8	Installation of pervious material for 50 percent of all new pollution generating surfaces such as driveways, parking or private roads that allows water to pass through at rates similar to pre-developed conditions.	15 percent
9	Restoring at least 20 percent of the total lot area outside of the reduced setback and any critical areas and their associated buffers as native vegetation.	10 percent
10	Implement any other enhancement measure indicated by the Shoreline Restoration Plan, to an extent proportional to the proposed project's impacts.	10 percent

5. Mitigation Plan. For use of either the standard reduced buffer or the maximum reduced buffer, the applicant must submit a mitigation plan that addresses the specific habitat components and/or ecological functions that may be lost as a result of either reduction mechanism. Mitigation plan elements, including monitoring and maintenance, shall be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B). Plan elements may include one or more of the mitigation options provided in the chart below to achieve an equal or greater protection of ecological functions:
  - a. The City shall accept previous actions that meet the provisions established in the setback reduction option chart below as satisfying the requirements of this section,

provided the previous action was not otherwise a requirement of the City either through specific regulation or as mitigation and that all other provisions are completed, including, but not limited to, the agreement noted in c. below. The reduction allowance for previously completed reduction actions may only be applied once on the subject property.

- b. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall provide a final as-built plan of any completed improvements authorized or required under this subsection.
  - c. Applicants who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions, including maintenance of the conditions throughout the life of the development, unless otherwise approved by the City, in a form acceptable to the City and recorded with the County Auditor.
  - d. Where opportunities to mitigate in kind and on site are not available or adequate, the mitigation plan may include off-site or out-of-kind mitigation, or contributions to a fee in lieu restoration program when established. When off-site mitigation is proposed, projects included in the Restoration Plan found in Appendix C of this SMP shall be considered first.
6. The design of uses or activities under Subsection 14.4.5.B shall avoid existing vegetation to the maximum extent practicable, and any impacts to existing vegetation or ecological functions must be mitigated as outlined in Section 4.2 and Appendix B.
  7. These provisions do not apply to those portions of water-dependent or public access development that require improvements or uses adjacent to the water's edge, such as fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launches, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for water-dependent or public access uses.
  8. Additional Standards:

- a. Landscape Standard for New Development, or Expansion. Sites that are currently undeveloped, or expanding existing impervious footprints by more than 10 percent of the existing site's impervious footprint, the development must provide a native landscape plan that meets the following criteria:
- (1) The applicant shall plant native vegetation, as necessary, along at least 75 percent of the shoreline frontage located along the water's edge. The nearshore riparian area shall be planted with an average 50 percent of the width of the standard buffer or the same area required under the standard buffer in the approved reduced buffer, as measured from the OHWM. When the expansion footprint totals less than 500 square feet, the maximum linear feet of shoreline frontage required to be planted is 125 feet.
  - (2) Restoration of native vegetation shall consist of a mixture of trees and shrubs typical of a native undisturbed riparian community in composition and structure, and be designed to improve habitat functions. At least eight trees per 100 linear feet of Wenatchee River shoreline and three trees per 100 linear feet of Columbia River shoreline must be included in the plan, and at least 80 percent of the restoration plan area shall be vegetated with trees or shrubs. The remaining 20 percent of the restoration plan area may be vegetated with groundcover. Plant materials must be native to Chelan County, and appropriate for the site's particular soil, exposure, and hydrologic conditions.
  - (3) Restoration plan elements, including monitoring and maintenance, shall also be included in the plan consistent with mitigation plan requirements outlined in the City of Cashmere critical areas regulations (see Appendix B).
  - (4) Alternative Compliance with Landscape Standard. Vegetation required by this subsection shall be installed unless the applicant demonstrates one of

the following and provides an alternative vegetation plan:

- (a) The vegetation will not provide shoreline ecological function due to existing conditions, such as the presence of extensive shoreline stabilization measures that extend landward from the OHWM; or
- (b) It is not feasible to plant all of the required vegetation on the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, or minimum spacing requirements for the vegetation to be planted; or
- (c) The vegetation will substantially interfere with the use and enjoyment of the portion of the property located between the primary structure and OHWM, such as the existing structure is located in very close proximity to the OHWM; the area between the primary structure and the OHWM is encumbered by a utility or public access easement, or other constraining factors; or
- (d) The required vegetation placement will obstruct existing views to the lake, at the time of planting or upon future growth, which cannot otherwise be mitigated through placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the City to determine whether the vegetation placement will obstruct existing views to the lake.

The alternate measures must be equal or superior to the provisions of this subsection in accomplishing the purpose and intent of maintaining and improving shoreline ecological functions and processes.

Requests to use alternative measures shall be reviewed by the Shoreline Administrator who may approve, approve with conditions, or deny the request.

If the alternative plan is consistent with the standards provided in this subsection, the Shoreline Administrator shall approve the plan or may impose conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

These provisions do not apply to those portions of public recreational water-oriented uses and water-dependent uses that require improvements adjacent to the water's edge, including, but not limited to, fuel stations for retail establishments providing gas sales, haul-out areas for retail establishments providing boat and motor repair and service, boat ramps for boat launching, swimming beaches or other similar activities. Where space is available, the required native vegetation shall be planted in the shoreline setback area that is not being used for public recreational water-oriented uses and water-dependent uses. Any impacts to ecological functions must be mitigated.

- b. Private physical shoreline access. A private access pathway constructed of pervious materials may be installed, a maximum of six (6) feet wide, through the remaining 25 percent of the shoreline buffer area. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible.<sup>9</sup> **Mitigation.** All mitigation areas shall be permanently identified and protected by means of a conservation easement or similar legal instrument recorded with the County Auditor.
10. **Tree Retention.** To maintain the ecological functions that trees provide to the shoreline environment, significant trees shall be retained as follows:

- a. Within shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Tree removal activities would include direct or indirect actions, including, but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.
- b. Within any shoreline buffer, significant trees shall be retained to the maximum extent possible, except where the tree is dead, diseased, dying or hazardous as determined by a qualified professional. The applicant shall be encouraged to retain viable trees in other areas on-site.
- c. If removal of a non-hazard significant tree in the shoreline buffer area is approved, a two-for-one replacement is required. For hazard trees, a one-for-one replacement is required. The required minimum size of the replacement tree(s) shall be 5 feet tall for a conifer and 1 ¾ inch caliper for deciduous or broad-leaf evergreen tree.
- d. For required replacement trees, a planting plan showing location, size and species of the new trees is required. All replacement trees in the shoreline buffer must be native species.

**14.4.6 Water Quality, Stormwater and Nonpoint Pollution**

- A. **Policies.** The following policies shall apply in addition to those of Section 4.6.1 of this SMP.
  - 1. Low Impact Development (LID) techniques should be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.
- B. **Regulations.** The following regulations shall apply in addition to those of Section 4.6.2 of this SMP.
  - 1. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable throughout the various stages of development including site assessment, planning



and design, vegetation conservation, site preparation, retrofitting and built-out management techniques.

2. Existing public stormwater management systems and facilities shall be retrofitted and improved to incorporate LID techniques whenever feasible.

## **14.5 Shoreline Modifications and Uses**

### **14.5.1 General Upland Shoreline Modification and Use Regulations**

See Section 5.1 of this SMP.

### **14.5.2 General Aquatic Shoreline Modification and Use Regulations**

- A. **Policies.** See Section 5.2.1 of this SMP. In addition, the following policy applies.

1. Minimize environmental impacts associated with day-use moorage or other public water access facilities.

- B. **Regulations.** See Section 5.2.2 of this SMP.

### **14.5.3 Agriculture**

- A. **Policies.** See Section 5.3.1 of this SMP.

- B. **Regulations.** Agricultural uses shall be allowed in conformance with City zoning requirements, and the provisions of this SMP, including but not limited to SMP Sections 5.3.2 and 14.3.

### **14.5.4 Aquaculture**

See Section 5.4 of this SMP.

### **14.5.5 Boating Facilities**

See Section 5.5 of this SMP.

### **14.5.6 Breakwaters, Jetties, Groins and Weirs**

See Section 5.6 of this SMP.

### **14.5.7 Commercial Development**

- A. **Policies.** The following policies shall apply in addition to the policies of SMP Section 5.7.1.

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1. The City shall implement the requirements of the Wenatchee Waterfront Subarea Plan.
2. Create a series of development nodes or focal points along the waterfront; each with a different type of setting, different mix of land uses, design emphasis, and park improvements. Specifically:
  - Encourage a concentration of pedestrian-oriented retail uses near the boat basin.
  - Encourage mixed-use development between the pedestrian bridge and Thurston Street.
  - Foster the development of a pedestrian-oriented mixed-use focus area in the area between 5th and 9th streets.
  - Encourage the development of a permanent Farmers Market facility in the Central Node.
  - Encourage the development of private/public recreational uses in the North End, including indoor sports complex, water-park, and/or an aquatic center, that complement existing park uses and add vitality to the waterfront.
  - Encourage the development of a variety of housing types in the North End.
  - Allow for a variety of uses west of Walla Walla Avenue, including general commercial, recreational, offices, industrial, and residential.
  - Promote agri-tourism uses and activities in the North End that build on the area's rich agricultural history. (Wenatchee Waterfront Subarea Plan)
3. Encourage office uses on the waterfront as a secondary use to complement residential, recreational, and festival retail use, to increase jobs, and to add daytime activity to the waterfront. (Wenatchee Waterfront Subarea Plan)
4. Preserve and promote waterfront historic features. Specifically: Educate the public on historical waterfront uses and features. (Wenatchee Waterfront Subarea Plan)

5. Adopt design standards for certain mixed use and commercial districts, including the downtown and waterfront. (Comprehensive Plan Community Design Policy 1)
6. Encourage mixed use and commercial districts to incorporate functional public spaces such as neighborhood parks or pedestrian plazas. (Comprehensive Plan Community Design Policy 2)
7. Require pedestrian circulation through new mixed use and commercial projects with sidewalks and internal pathways. (Comprehensive Plan Community Design Policy 3)
8. Allow on-street parking to count towards off-street parking requirements in selected mixed-use areas to encourage compact, pedestrian oriented development and reduce the size and impacts of parking lots. (Comprehensive Plan Community Design Policy 4)
9. Facilitate residential development in the downtown and other areas close to employment, cultural and shopping opportunities. (Comprehensive Plan Community Design Policy 5) Provide a variety of housing types on the waterfront to increase pedestrian activity and vitality, increase the market for area businesses, and accommodate a significant share of the city's projected population growth. (Comprehensive Plan Land Use/UGA Policy)
10. Enhance sidewalk activity by encouraging development to site buildings close to the street, with parking located behind or to the side of buildings, and to include ground-floor façade treatments that generate pedestrian interest. (Comprehensive Plan Community Design Policy 6)
11. All signs and lighting (including for streets, buildings, parking areas, and signs) should be designed so that they perform their function without being unduly disruptive to the visual appeal of the area. (Comprehensive Plan Community Design Policy 7)
12. Promote quality development to strengthen the waterfront's character and sense of identity. (Comprehensive Plan Land Use/UGA Policy)

- B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.7.2 and 14.3.

### **14.5.8 Dredging and Dredge Material Disposal**

- A. **Policies.** See Section 5.8.1 of this SMP.
- B. **Regulations.** The following regulation shall apply in addition to the regulations of SMP Section 5.8.2.
  - 1. In the City of Wenatchee and its UGA, all dredging is prohibited except as necessary to conduct environmental cleanup. Under those circumstances where the cleanup results in water depth conditions that are favorable to a marina or other over-water development allowed by this Master Program, such use may be allowed to locate over the dredged area.

### **14.5.9 Fill**

See Section 5.9 of this SMP.

### **14.5.10 Forest Practices**

See Section 5.10 of this SMP.

### **14.5.11 Industry**

- A. **Policies.** The following policies shall apply in addition to the policies of SMP Section 5.11.1.
  - 1. Protect the viability of Wenatchee's limited industrial areas by restricting incompatible development adjacent to these uses. (Comprehensive Plan Industrial Districts Policy 2)
  - 2. Maintain viable industrial uses in the waterfront area where related access and use impacts to the development nodes can be mitigated. (Wenatchee Waterfront Subarea Plan and Comprehensive Plan Industrial Districts Policy 4)
- B. **Regulations.** Water-oriented industrial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.11.2 and 14.3.

### **14.5.12 In-Water Structures**

See Section 5.12 of this SMP.

### **14.5.13 Mining**

See Section 5.13 of this SMP.

**14.5.14 Private Moorage Facilities**

- A. **Policies.** See Section 5.14.1 of this SMP.
- B. **Regulations.** The following regulations shall apply in addition to those of SMP Section 5.14.2.
  - 1. Private moorage facilities are prohibited on the Wenatchee and Columbia Rivers.
  - 2. Docks, boatlifts, swim floats, buoys, watercraft lifts, and moorage piles shall only be approved as an accessory to an existing principle permitted and established use, or may be permitted concurrently with a principle use.

**14.5.15 Recreational Development**

- A. **Policies.** The following policies shall apply in addition to the policies of SMP Section 5.15.1.
  - 1. Acquire shoreline property whenever it meets the current and future needs for public recreation access. (Comprehensive Plan Shoreline Use and Access Policy 1)
  - 2. Recognize that the Wenatchee waterfront is a unique regional recreational resource. (Comprehensive Plan Shoreline Use and Access Policy 2)
  - 3. Provide visual access to the water whenever possible. Develop viewpoints where the topography prevents direct access. (Comprehensive Plan Shoreline Use and Access Policy 3)
  - 4. Develop and use waterfront parks for activities and interests specifically related to the shoreline environment. Implement the adopted Waterfront Sub Area Plan. (Comprehensive Plan Shoreline Use and Access Policy 4)
  - 5. Provide opportunities for walking and visits where terrain and shore conditions permit public access. (Comprehensive Plan Shoreline Use and Access Policy 5)
  - 6. Encourage environmental education, learning opportunities and partnerships for shoreline and habitat opportunities. (Comprehensive Plan Shoreline Use and Access Policy 6)

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7. Continue to work with Wenatchee School District, Chelan County PUD, and the Port of Chelan County to provide Community and Regional Park facilities. (Comprehensive Plan Parks and Open Space System Policy 9)
8. Work to expand waterfront trails, waterfront access and expanded water related activities. (Comprehensive Plan Parks and Open Space System Policy 11)
9. Protect the environmental integrity of the waterfront trail and park. Specifically:
  - Minimize the loss of open space and landscaped areas within the park.
  - Expand and improve the waterfront trail, where necessary, to support usage and minimize conflicts between different types of users.
  - Design park improvements to complement and enhance surrounding park features. (Wenatchee Waterfront Subarea Plan)
10. Enhance waterfront activities and amenities. Specifically:
  - Provide a day-use moorage in the South End.
  - Develop a non-motorized boat center near 9th Street.
  - Consider integrating commercial uses into the park in the development nodes as long as impacts to the trail are mitigated.
  - Develop a waterfront amphitheater in the Central Node.
  - Provide improvements to Walla Walla Park, where necessary to support usage and complement adjacent uses and activities.
  - Create a water feature near the pedestrian bridge in the South End.
  - Provide additional children's amenities along the waterfront.
  - Provide additional opportunities for picnicking, and other passive recreational activities.

- Provide opportunities for historical and environmental interpretation.
- Enhance the physical and visual connection between the park and river. (Wenatchee Waterfront Subarea Plan)

B. **Regulations.** In addition to the requirements of SMP Section 5.15.2, the following shall apply:

1. Design. Recreation facilities shall be designed in accordance with City of Wenatchee Parks and Recreation Department Park Design Standards and Development Policies.

#### **14.5.16 Residential Development**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.16.1:

1. Provide a variety of housing types on the waterfront to increase pedestrian activity and vitality, increase the market for area businesses, and accommodate a significant share of the city's projected population growth over the next two decades. (Wenatchee Waterfront Subarea Plan)
2. Encourage the development of affordable housing options. Specifically:
  - Work with area partners in developing affordable housing options for displaced residents.
  - Develop incentives to encourage the incorporation of affordable units into new developments. (Wenatchee Waterfront Subarea Plan)

B. **Regulations.** Commercial uses shall be allowed in conformance with City zoning requirements and the provisions of this SMP, including, but not limited to, SMP Sections 5.16.2 and 14.3.

#### **14.5.17 Shoreline Habitat and Natural Systems Enhancement Projects**

See Section 5.17 of this SMP.

#### **14.5.18 Shoreline Stabilization**

See Section 5.18 of this SMP.

## 14.5.19 Transportation and Parking

- A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.19.1.
1. Create visible and attractive gateways that promote the waterfront and create a sense of identity. Specifically:
    - Provide signature way-finding elements that provide directional assistance and become an important identity element.
    - Provide multi-modal access and gateway improvements on Hawley Street, 9th Street, 5th Street, Orondo Street, Thurston Street, and Bridge Street. (Wenatchee Waterfront Subarea Plan)
  2. Link and integrate the waterfront's development nodes. Specifically: Create a new waterfront roadway between Worthen, 5th and 9th Streets. (Wenatchee Waterfront Subarea Plan)
  3. Minimize vehicular conflicts between industrial-related traffic and other waterfront related traffic. Specifically:
    - Complete planned Thurston Street improvements.
    - Construct a new roadway between Worthen Street and 5th Street to bypass cold storage uses.
    - Construct a new roadway between 5th and 9th Streets to provide a more direct link between Worthen Street and Walla Walla Avenue.
    - Complete connection between Hawley and Walla Walla Avenue. (Wenatchee Waterfront Subarea Plan)
  4. Minimize traffic impacts of trains on the waterfront access. Specifically:
    - Complete planned Thurston and 5th Street improvements.
    - Continue to work with the BNSF Railroad to minimize rail impacts.
    - Based on Wenatchee Valley Transportation Council recommendations, consider grade separation at Hawley rail



crossing to enhance waterfront access. (Wenatchee Waterfront Subarea Plan)

5. Provide on-street parking opportunities, where possible, on existing and new streets to support waterfront land uses and calm traffic. (Wenatchee Waterfront Subarea Plan)
6. Encourage the development of new roadways, where necessary, to facilitate desired development and enhance waterfront access. (Wenatchee Waterfront Subarea Plan)
7. As desired development occurs, develop transit routes, service, and facilities that link waterfront neighborhoods to each other and the rest of the community. (Wenatchee Waterfront Subarea Plan)

B. **Regulations.** In addition to the regulations of SMP Section 5.19.2, the following shall apply and where different shall supersede such requirements:

1. Parking requirements of the Wenatchee City Code shall apply.
2. New parking areas shall be set back from the OHWM to the maximum feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses.

#### **14.5.20 Utilities**

A. **Policies.** The following policies shall apply in addition to those of SMP Section 5.20.1:

1. Require the under-grounding of utilities in service extensions and system upgrades where feasible. (Comprehensive Plan Utility Environment Policy 1)
2. Reasonable screening and/or architecturally compatible integration of all new above-ground utility facilities shall be required. (Comprehensive Plan Utility Environment Policy2)
3. Restoration following installation activities is required, paying particular attention in critical areas. (Comprehensive Plan Utility Environment Policy3)
4. Mandate the joint use of utility corridors and facilities consistent with prudent utility practice. (Comprehensive Plan Utility Environment Policy4)

- B. **Regulations.** The regulations of SMP Section 5.20.2 shall apply.

## **14.6 Nonconforming Uses and Development Standards.**

### **14.6.1 Nonconforming uses**

- A. A legal nonconforming use in existence as of the effective date of this SMP may be continued but shall not be enlarged upon, expanded, increased in intensity or be extended; provided, however, the extension of the nonconforming use of a structure that was originally arranged or designed for such nonconforming use at the time of passage of the ordinance or amendment thereto shall not be deemed the extension of a nonconforming use.
- B. A nonconforming use shall not be changed to any other use unless changed to a conforming use. A nonconforming use, if changed to a conforming use, may not thereafter be changed to a nonconforming use.
- C. No nonconforming use shall be enlarged, increased or extended to occupy a greater gross floor area or land coverage than was occupied on the effective date of the ordinance codified in this title or amendment thereto.
- D. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that part occupied by such use on the effective date of adoption or amendment of the ordinance codified in this title.
- E. If a nonconforming use is discontinued or abandoned from active use for a period of one year, further use of the property shall conform to the provisions of this title.
- F. Any exterior alterations to a building housing a nonconforming use shall be subject to review by the hearing examiner at a public hearing. The hearing examiner shall determine that such alteration is not less consistent with the general design and appearance of other buildings in the neighborhood than the original building.

### **14.6.2 Nonconforming structures**

- A. A structure which is legally nonconforming as of the effective date of the SMP by reason of restrictions on area, lot coverage, height, required setbacks or other requirements concerning structures may be continued so long as it remains otherwise lawful.

- B. A structure with one or more nonconforming setbacks may be extended when said addition or extension would be no less conforming as to setback distance than the existing structure; and provided, that the addition shall be no longer in linear feet along the nonconforming setback than 50 percent of the length of the existing nonconformity.
- C. A nonconforming structure shall not be altered, extended, enlarged, or otherwise physically changed in any manner that would have the effect of increasing its amount or degree of nonconformity.
- D. A nonconforming structure destroyed by any cause to an extent exceeding 50 percent of its cost of replacement using new materials shall only be replaced with a structure conforming to the provisions of this title.
- E. Nothing in this title shall be deemed to prevent the normal maintenance and repair of a nonconforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

#### **14.6.3 Nonconforming lots**

- A. Lots which were lots of record on the date of adoption of this SMP, or amendment thereto, which contain less than the required width, depth, or area as required by this SMP, shall be considered building lots in all respects; provided, that any structures proposed to be built meet all of the dimensional requirements of the use environment in which the lot is located;
- B. Provided, however, a lot which is nonconforming by virtue of the lack of its adequate access to a public street as required elsewhere in this title shall not be considered a building lot.

#### **14.6.4 Nonconforming signs**

- A. Off-Site Signs.
  - 1. Off-site signs in existence on the date of adoption of the SMP, which were constructed, erected or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs which may be continued, maintained and altered by changing the sign face or message, but shall not be allowed to change sign type, such as but not limited to the addition or

changing of “effects,<sup>42</sup>” and shall not be allowed to increase in size, height or any other manner.

2. Off-site signs in existence on the date of adoption of the ordinance codified in this section, which were constructed, erected or maintained in compliance with all previous regulations, which are destroyed by an act of God or accident may be replaced; provided, that the replaced sign meets the standards set forth in subsection (A)(3) of this section.
3. Off-site signs in existence on the date of adoption of the SMP, which were constructed, erected or maintained in compliance with all previous regulations, may be moved or relocated on the same parcel of land when development of the property by the property owner requires relocation; provided, however, that the replacement sign conforms to the provisions of Appendix H and the following standards:
  - a. The new off-site sign shall be no greater in size (height and area) than the replaced sign;
  - b. The new off-site sign shall be similar in construction to the replaced sign (e.g., electronic versus painted, single face or double faced or V-type);
  - c. No off-site sign is located within 500 lineal feet of another off-site sign;
  - d. No off-site sign is located within 300 lineal feet of a residential zone;
  - e. No off-site sign is located within 300 lineal feet of, or oriented to be viewed from, those areas known as Riverfront Park, Walla Walla Point Park, or Confluence Park, or as the same are subsequently known;
  - f. Off-site signs shall be limited in size to 300 square feet, including the frame area;
  - g. Maximum height of off-site signs shall be 30 feet above grade, measured from the base of the sign support; and
  - h. The new off-site sign shall not contain any new “effects.”

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<sup>42</sup> See Appendix H regarding use of this term.

- B. On-Site Signs.
  - a. An on-site sign which is legally nonconforming as of the effective date of this SMP by reason of restrictions on height, required setbacks or other requirements concerning on-site signs may be continued so long as it remains otherwise lawful.
  - b. A nonconforming on-site sign shall not be altered, extended, enlarged, or otherwise physically changed in any manner that would have the effect of increasing its amount or degree of nonconformity.
  - c. A nonconforming on-site sign destroyed by any cause to an extent exceeding 50 percent of its cost of replacement using new materials shall only be replaced with an on-site sign conforming to the provisions of this title.
  - d. Nothing in section shall be deemed to prevent the normal maintenance and repair of a nonconforming on-site sign or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

## **14.7 Shoreline Permits, Procedures and Administration**

### **14.7.1 Roles and Responsibilities**

- A. The Shoreline Master Program Administrator in the City of Wenatchee is the Planning Director and shall have overall administrative responsibility of the SMP. The Administrator, or his/her designee, shall make administrative decisions and interpretations of the policies and regulations of this SMP and the Act, and shall have the authority to grant or deny Shoreline Substantial Development Permits.
- B. In the City of Wenatchee, following quasi-judicial hearings, the Hearing Examiner shall have the authority to grant or deny Shoreline Variances, and Shoreline Conditional Use Permits under this SMP. The Hearing Examiner shall also decide on appeals of administrative decisions issued by the Administrator of this SMP.
- C. The Wenatchee City Council shall maintain a policy role, adopting all amendments to this SMP, after consideration of the recommendation of the City of Wenatchee Planning Commission.

- D. The City of Wenatchee Planning Commission shall make recommendations for amendments of this SMP to the Wenatchee City Council.

#### **14.7.2 Interpretation**

The Administrator shall provide administrative interpretations in accordance with Wenatchee City Code Section 13.03.020.

#### **14.7.3 Additional Noticing Requirements**

- A. Noticing requirements for permits issued under the SMP in the City of Wenatchee shall be in accordance with Wenatchee City Code Chapter 13.07.
- B. See Section 7.3 of this SMP for the minimum noticing requirements provided by WAC 173-27-110 and WAC 173-27-120.

#### **14.7.4 Application Requirements**

- A. Chapter 13.05 of the Wenatchee City Code provides the minimum application requirements and fees and codifies the form upon which the application must be submitted.
- B. See Section 7.4 of this SMP for the minimum application requirements listed in WAC 173-27-180 and additional application requirements of this SMP.

#### **14.7.5 Shoreline Substantial Development Permits**

See Section 7.5 of this SMP.

#### **14.7.6 Exemptions from Shoreline Substantial Development Permits**

See Section 7.6 of this SMP.

#### **14.7.7 Shoreline Conditional Use Permits**

See Section 7.7 of this SMP.

#### **14.7.8 Shoreline Variance Permits**

See Section 7.8 of this SMP.

#### **14.7.9 Permit Conditions**

In addition to the requirements of Section 7.9 of this SMP, the City may condition development with respect to the following:

- A. Public access: physical and visual pursuant to 14.4.4.
- B. Timeline for completion of restoration.

**14.7.10 Duration of Permits**

See Section 7.10 of this SMP.

**14.7.11 Initiation of Development**

See Section 7.11 of this SMP.

**14.7.12 Review Process**

- A. The application shall be reviewed by the City in accordance with Wenatchee City Code Chapter 13.07.
- B. See Section 7.12 of this SMP for review by Ecology after permit approval by the City.

**14.7.13 Appeals**

- A. See Section 7.13 of this SMP.
- B. In addition, for administrative appeals, see Wenatchee City Code Chapter 13.11.

**14.7.14 Amendments to Permits**

See Section 7.14 of this SMP.

**14.8 Definitions**

See Chapter 8 of this SMP.





**Appendix A: Shoreline Jurisdiction Boundaries and Environment Designation  
Maps**



**Appendix B: Critical Areas Regulations**

Chelan County

City of Cashmere

City of Chelan

City of Entiat

City of Leavenworth

City of Wenatchee



**Appendix C: Restoration Plan**



**Appendix D: Vision Workshop Summary**





## Vision Workshop Summary, Fall 2008

### **Environmental Protection:**

Participants were asked which community natural areas should be protected and the best approach for preservation. They identified degraded shoreline areas that should be restored and discussed who should be responsible for restoration efforts. Many expressed concern about the water quality of local ponds, creeks, streams, rivers and lakes and recommend improved water quality testing and monitoring, stormwater management, and erosion control. Some pointed out the need for better management of refueling stations and the need for reductions in pesticide and chemical spray use. Others noted the loss of views, view corridors, and public access due to increased private development. Most agreed that public education—especially of children—plays an important role in environmental stewardship, preservation and restoration.

Key themes included:

- People are drawn to the natural beauty of the area. They recognize its importance environmentally and economically, and the need for a balance of shoreline uses.
- Many are concerned about the water quality of local ponds, creeks, streams, rivers and lakes and recommend improved water quality testing and monitoring, stormwater management and erosion control.
- Initiate and support ongoing efforts for cleanup and removal of litter, debris and junk metal in the water and along our shorelines.

### **Public Access:**

Participants were asked how they currently use community shorelines, how easy it is to access those areas, which areas need new or improved public access, and what they imagined their community's shorelines will look like in the future. Participants regularly use shoreline areas for walking, biking, fishing, rafting, kayaking, boating, tubing, jet skiing, swimming, bird watching, wildlife viewing, beach combing, scenic viewpoints, educational purposes, and even gold panning. Some feel that public access is inadequate because of private ownership, and difficult to find due to lack of clearly defined access points. Others feel their communities have fairly good public shoreline access. Participants recommend the County and partner Cities consider clear signage; more public docks, marinas and boat launches; more trails and access for non-motorized uses; improved amenities (restrooms, parking and dumpsters) at access points; and dog friendly areas. Some

## **DRAFT Chelan County Shoreline Master Program**

recommend an inventory of publicly owned land that could be converted for public access. Participants pointed out the conflicts between permitted private uses adjacent to public land and suggest prioritizing public access opportunities based on use and the potential impacts to private land.

Key themes included:

- Countywide need for signage and well defined public access points.
- Many are concerned about noise impacts from motorized vehicles on County rivers and lakes.
- Establish and maintain view corridors and scenic view roadway turnouts.
- Identify publicly owned land that could be adapted for new public access (e.g., street ends and rights-of-ways).
- We have many parks and trails. Expand existing facilities before building new. Ensure existing public access, landscape and natural character are maintained.

### **Shoreline Uses:**

Participants responded to questions about the scope and scale of their community's shoreline uses (e.g., what is there too much or too little of?), what type of development they would like to see, and the most suitable locations for future development. In general, participants feel it is important to create more public access for a variety of uses, establish and maintain view corridors, improve management of new development and density through zoning, address trash and litter along shorelines, improve pedestrian and bicycle connectivity, and control the noise and environmental and impacts of motorized crafts on the County's lakes and rivers.

Key themes included:

- People are drawn to the natural beauty of the area. They recognize its importance environmentally and economically, and the need for a balance of shoreline uses.
- Improve management of new development and density through zoning, and enhance pedestrian and bicycle connectivity.
- Keep new development in areas where existing development is located.

**Appendix E: Jurisdiction Exhibits (Excerpts from the Shoreline Master Program Handbook)**



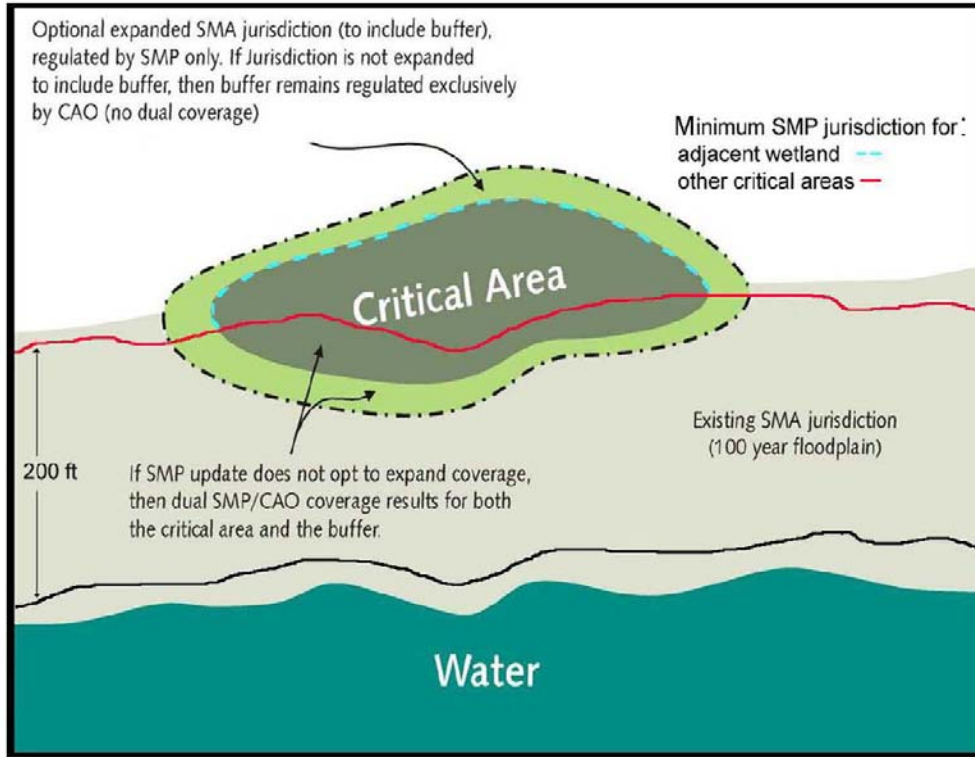


Figure 5-8: Local governments have the option to expand SMA jurisdiction to include lands necessary for buffers for critical areas.

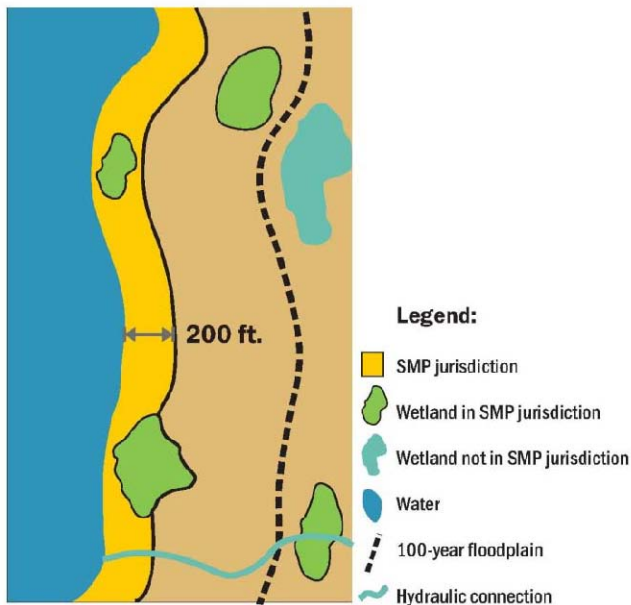


Figure 5-9: Wetlands in shoreline jurisdiction are either fully or partially within 200 feet of the OHWM, within the floodplain, or associated through hydraulic continuity.



**Appendix F: Channel Migration Zone Maps**





**Appendix G: Public Access Plans**



**Appendix H: Sign Codes**