Westport Shoreline Master Program Update

Shoreline Master Program

Environment Designations, Policies, & Regulations

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LIST OF ABBREVIATIONS

BAS –	Best Available Science
BMPs –	Best Management Practices
CAC –	Citizen Advisory Committee for the Shoreline Master Plan Update Process
CAO –	Critical Areas Ordinance
CARA –	Critical Aquifer Recharge Areas
City –	City of Westport
DAHP –	Washington State Department of Archaeology and Historic Preservation
Ecology –	Washington State Department of Ecology
ESA –	Federal Endangered Species Act
FEMA –	Federal Emergency Management Agency
FIRM –	Flood Insurance Rate Map
GHEMP –	Grays Harbor Estuary Management Plan
GMA –	Washington State Growth Management Act (Chapter 36.70A RCW)
HPA –	Hydraulic Project Approval
LUPA –	Land Use Petition Act
OHWM –	Ordinary High Water Mark
ORMA –	Ocean Resources Management Act (Chapter 43.143 RCW)
RCW –	Revised Code of Washington
SEPA –	State Environmental Policy Act (Chapter 43.21C RCW)
SHB –	Washington State Shorelines Hearings Board
SMA –	Shoreline Management Act (Chapter 90.58 RCW)
SMP –	Shoreline Master Program
State –	State of Washington
TAC –	Technical Advisory Committee for the Shoreline Master Plan Update Process
USACE –	United States Army Corps of Engineers

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WAC – Washington Administrative Code

WDFW – Washington State Department of Fish and Wildlife

WDNR – Washington State Department of Natural Resources

WSDOT – Washington State Department of Transportation

WMC – Westport Municipal Code

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1 INTRODUCTION

1.01 REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT

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

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

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

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

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

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1.02 AUTHORITY

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

1.03 PURPOSE AND INTENT

The four purposes of the SMP are to:

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

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

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

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

1.04 SHORELINE MASTER PROGRAM DEVELOPMENT

The city obtained grant number G1400393 from Ecology in 2014 to conduct a comprehensive SMP update. The first step in the update process involved an inventory of the areas of the city subject to the SMA. The Pacific Coast and Grays Harbor shorelines and their associated wetlands comprise the areas in the city subject to the SMA. There are over 13 miles of coastline that meet the definition of shorelines of the state in the city.

The Public Participation Plan guided public interaction throughout the development of the SMP. The Citizen Advisory Committee (CAC), composed of all citizens who attended regularly scheduled meetings of the Planning Commission, reviewed SMP documents, particularly proposed shoreline environment designations, policies, and regulations, and provided feedback in a series of public meetings.

The Shoreline Inventory and Characterization described existing biological and physical conditions for the six shoreline reaches covering the city. These reaches were analyzed and characterized to create a baseline from which future development actions in shoreline jurisdiction will be measured. A Technical Advisory Committee (TAC) reviewed and commented on the Shoreline Inventory and Characterization.

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

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

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

1.05 APPLICABILITY

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

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

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

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

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

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1.06 SHORELINE JURISDICTION

1.06.01 EXTENT OF SHORELINE JURISDICTION

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

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

B. Shorelands adjacent to these waterbodies. These include:

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

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

   3. All wetlands associated with tidal waters subject to the SMA.

The Pacific Ocean and Grays Harbor and their shorelands are subject to the SMA and the city's SMP.

According to RCW 35.21.160, the city's shoreline jurisdiction extends offshore to the three mile territorial limit of the state in the Pacific Ocean and to the middle of the marine channel between the cities of Ocean Shores and Westport and extends to the middle of Grays Harbor. The city will need to coordinate with Ecology and the other jurisdictions in Grays Harbor County on a case-by-case basis to avoid creating jurisdictional conflicts.

As recommended by the CAC and Planning Commission and approved by the City Council, the city chose not to include additional subareas in shoreline jurisdiction during the SMP planning process. These additional areas included the following:

- All or a portion of the one-hundred-year-flood plain beyond the contiguous floodplain areas landward two hundred feet from adopted FEMA floodways.
- The "…land necessary for buffers for critical areas as defined in Chapter 36.70A RCW that occur within shorelines of the state."

The extent of shoreline jurisdiction in the city is depicted on the official shoreline map included in SMP Appendix 1: Shoreline Environment Designation Map. The map only approximately represents the lateral extent of shoreline jurisdiction. The actual lateral extent of shoreline

jurisdiction shall be determined on a case-by-case basis established by the location of the OHWM, the adopted FEMA floodway, and the presence of associated wetlands. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel and any use, activity or development on that portion of the parcel within the shoreline jurisdiction is subject to the SMP.

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

1.06.02 SHORELINES OF STATEWIDE SIGNIFICANCE

A. Adoption of Policy

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

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

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

B. Designation of Shorelines of Statewide Significance

Specific waterbodies are classified as shorelines of statewide significance in RCW 90.58.030(2)(f):

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

In the city, the Pacific Ocean and Grays Harbor and their associated shorelands are defined as shorelines of statewide significance, which are considered resources for all

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people of the state. Preference is given to uses that favor long-range goals and support the overall public interest.

C. Policies for Shorelines of Statewide Significance

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the city shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.020 and the following policies:

1. Encourage redevelopment of shorelines where it restores or enhances shoreline ecological functions and processes impaired by prior development activities.
2. The city should consult with Ecology, the Washington State Department of Fish and Wildlife (WDFW), the Confederated Tribes of the Chehalis Reservation, and the Quinault Indian Tribe, and other resource agencies for development proposals that could affect anadromous fisheries.
3. Activities that use shoreline resources on a sustained yield or non-consuming basis and that are compatible with other appropriate uses should be given priority over uses not meeting these criteria.
4. The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce, or irreplaceable natural resources should not be permitted if alternative sites are available.
5. Potential short-term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.
6. Protection or enhancement of aesthetic values should be actively promoted in design review of new or expanding development.
7. Resources and ecological systems of shorelines of statewide significance and those limited shorelines containing unique, scarce, and/or sensitive resources should be protected to the maximum extent feasible.
8. Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment control, excavations, land clearing, or other activities likely to result in significant erosion should be severely limited.

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9. Public access development in extremely sensitive areas should be restricted or prohibited. All forms of recreation or access development should be designed to protect the resource base upon which such uses in general depend.
10. Public and private developments should be encouraged to provide trails, viewpoints, water access points, and shoreline related recreation opportunities whenever feasible. Such development is recognized as a high priority use.
11. Development not requiring a waterside or shoreline location should be located inland so that lawful public enjoyment of shorelines is enhanced.

1.06.03 OFFICIAL SHORELINE MAP

The City Clerk – Treasurer shall keep the official shoreline map for the city. Unofficial copies of the official map may be included or distributed with copies of the SMP.

1.07 RELATIONSHIP TO OTHER CODES, ORDINANCES, AND PLANS

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

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

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

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1.08 LIBERAL CONSTRUCTION

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

1.09 SEVERABILITY

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

1.10 TITLE

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

1.11 EFFECTIVE DATE

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

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2 SHORELINE MANAGEMENT GOALS

2.01 SHORELINE MASTER PROGRAM GOALS

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

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

2.02 ECONOMIC DEVELOPMENT GOAL

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

> Maintain and enhance our shoreline-related industry and transportation related facilities such as the Westport Marina in the Westhaven Cove and Municipal Airport. Secure an adequate amount of appropriate shorelines for these industrial and port developments, navigation and transportation facilities, and provide an adequate area for diversified shoreline-related industries as implemented through the city's Comprehensive Plan and facility plans. The city has identified the Marina and airport as important transportation, commercial, and tourist facilities and supports statewide efforts for industrial sites of statewide significance.

2.03 PUBLIC ACCESS GOAL

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

Maintain and improve our existing public access to publicly owned shorelines and secure additional access for residential and general public use through land use plans identified in the comprehensive plan and development regulations.

2.04 RECREATION GOAL

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

Seek to provide proper recreational opportunities for local citizens to meet local recreational needs. Maintain and enhance our tourism resources, stabilize these resources, and guide resource development such that development enhances rather than detracts. Recreational opportunities, including public access, have been identified in the approved city Parks and Recreation Plan. These areas should be addressed in the review of any project..

2.05 CIRCULATION GOAL

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

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

2.06 SHORELINE USE GOAL

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

Promote the best possible pattern of land uses, assure a minimum of conflict between uses, assure that individual uses are placed on sites appropriate to such uses, assure that lands and waters of specific characteristics are available to uses which need such

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special types of lands and waters, see that all of the uses needed by the region have a place, generally devise a pattern beneficial to the natural and human environments, and provide reasonable opportunity for residential, tourist, recreation, and water-oriented commercial and industrial uses on the shorelines of the city.

2.07 CONSERVATION GOAL

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

Identify the resources of the region including fish, wildlife, timber, estuaries, shorelines, beaches, scenic areas, critical areas, land, water, and air. The city's development regulations are designed to enhance these goals.

2.08 HISTORIC, CULTURAL, SCIENTIFIC, AND EDUCATIONAL GOAL

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

Historic, cultural, scientific, and educational value should be preserved and maintained through park use or historic designation.

2.09 FLOOD HAZARD PREVENTION GOAL

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

The city participates in the National Flood Insurance Program through the adoption and enforcement of its Flood Hazard Prevention Ordinance, which has been codified in Chapter 15.12 of the Westport Municipal Code (WMC).

2.10 RESTORATION GOAL

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

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Encourage development in areas that have been previously impacted with development so that such areas may be renewed, restored, and refurbished by compatible new development.

2.11 ESTUARY MANAGEMENT GOAL

Goal EST-1. The Grays Harbor estuary will be managed for multiple uses.

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3 SHORELINE ENVIRONMENT DESIGNATIONS

3.01 SHORELINE ENVIRONMENT DESIGNATION SYSTEM

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

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

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

C. **The goals and aspirations of the city as expressed through the its Comprehensive Plan**. The Comprehensive Plan goals and policies, land use designations, various elements that apply to shoreline jurisdiction, including regulations and standards that enact goals and policies.

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

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

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3.01.01 AQUATIC

A. Purpose

The purpose of the Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of shoreline jurisdiction waterward of the OHWM outside of the Westport Marina in the Westhaven Cove.

B. Designation Criteria

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

C. Management Policies

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

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

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3.01.02 MARINA AQUATIC

A. Purpose

The purpose of the Marina Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of shoreline jurisdiction waterward of the OHWM within the Westport Marina in the Westhaven Cove.

B. Designation Criteria

Assign the Marina Aquatic shoreline environment designation to lands waterward of the OHWM that currently support high intensity uses related to the Westport Marina.

C. Management Policies

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

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

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8. All approvals from WDFW and other agencies such as the United States Army Corps of Engineers (USACE) shall be obtained as needed, and projects must comply with the requirements, limitations, and mitigations as required by the reviewing agencies.

3.01.03 HIGH INTENSITY

A. Purpose

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

B. Designation Criteria

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

C. Management Policies

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

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

c. Water-enjoyment

2. Allow for non-water-related uses within this designation where there is a developed roadway between the OHWM and the proposed use.
3. Allow the development of new non-water-oriented uses either as part of mixed-use development or where the applicant can demonstrate that the use will not conflict with or limit opportunities for other water-oriented uses.
4. Design new development located in shoreline jurisdiction to result in no net loss of ecological function.
5. Restore and remediate shoreline areas within new development sites consistent with state and federal laws.
6. Require visual and physical access where feasible with physical access prioritized over visual access.
7. Require full use of existing developed lands in the shoreline jurisdiction served by existing or planned infrastructure before expanding intensive development.
8. Recognize the intensely developed areas in and around the Westport Marina and airport, which are considered important industrial, port, and transportation uses.
9. Encourage redevelopment and infill development in previously disturbed areas or in areas with existing infrastructure within and around the Marina while preserving undisturbed areas where possible to reduce impacts.
10. Provide policies for the location and design of improvements at the airport in accordance with the approved Airport Layout Plan.
11. Identify areas appropriate for expansion of commercial, industrial, port, and tourist uses that will avoid impacts or, or with mitigation, result in no irreparable harm to the environment of the shoreline.
12. Allow for structures waterward of the OHWM in the developed portion of the Marina consistent with the policies and standards of the SMP. In-water structures related to boating, port, and water access facilities are addressed in SMP Section 5.07 and in-water structural shoreline modifications are addressed in SMP Section 6.05.

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3.01.04 SHORELINE RESIDENTIAL

A. Purpose

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

B. Designation Criteria

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

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

C. Management Policies

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

1. Preserve ecological functions by establishing development standards for height, shoreline buffers, building setbacks, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in shoreline jurisdiction.
2. Provide public access and joint use for community recreational facilities, where feasible and applicable for multifamily developments, residential developments containing more than four lots, and recreational developments.
3. Ensure access, utilities, and public services are available and adequate to serve existing needs or planned future development.
4. Limit commercial development to water-oriented uses. Home occupations consistent with WMC Chapter 17.36.040 are allowed.

3.01.05 URBAN CONSERVANCY

A. Purpose

The Urban Conservancy shoreline environment designation is intended to provide for ecological protection and rehabilitation in relatively undeveloped areas of shoreline

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jurisdiction, while allowing water-oriented and non-water-oriented recreational development, low intensity residential development, and limited development suitable to lands characterized by ecological and flood hazard constraints.

B. Designation Criteria

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

1. Are appropriate and planned for low-intensity recreational and residential development that is compatible with maintaining or restoring the ecological functions of the area in shoreline jurisdiction and that are not generally suitable for water-dependent uses;
2. Are suitable for water-related or water-enjoyment uses;
3. Possess development limitations, due to the presence of critical environmental features including:
    a. Erosion hazard areas;
    b. Wetlands;
    c. Flood hazard areas; or
    d. Habitat areas;
4. Have the potential for development that is compatible with ecological restoration;
5. Retain important ecological functions, even though partially developed; or
6. Are undesignated areas.

C. Management Policies

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

1. Allow uses that preserve the natural character of the shoreline environment designation, promote preservation of open space, floodplain, or critical areas directly, or over the long-term as the primary allowed uses. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and setting.
2. Implement public access and public recreation objectives whenever feasible and significant ecological impacts can be mitigated.

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3. Give preferred water-oriented uses priority instead of non-water-oriented uses. Water-dependent and recreational development should be given highest priority.
4. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating and water access facilities, angling, and wildlife viewing trails are preferred uses, provided significant adverse impacts to the shoreline are mitigated.
5. Low-intensity residential development when consistent with provisions of the SMP is a preferred use.
6. Ensure that standards for new development for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications do not result in a net loss of ecological functions or degrade other shoreline values.

3.02 INTERPRETATION OF SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

3.02.01 SHORELINE ENVIRONMENT DESIGNATION MAP

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

3.02.02 DETERMINING SHORELINE ENVIRONMENT DESIGNATION BOUNDARIES

A. If the exact location of a shoreline environment designation boundary line is unclear, the following rules shall apply:
    1. Boundaries that are shown as approximately following lot, tract, or section lines shall be so construed.
    2. Boundaries that are shown as approximately following roads shall be respectively construed to follow the nearest right-of-way edge.
    3. Boundaries that are shown as approximately parallel to or extensions of features described in SMP Section 3.02.02(A)(1) or (2), shall be construed to be parallel to or extensions of features in SMP Section 3.02.02(A)(1) or (2) when determining boundaries.

4. Where boundary line adjustments or other modifications not indicated on the official shoreline map involve two or more parcels with different shoreline environment designations, the more restrictive shoreline environment designation shall be assigned as the shoreline environment designation for the subject properties. In the event of a right of way vacation, the designation of the adjacent property should extend to the middle of the vacated right of way. These designations will remain until the shoreline environment designation can be redesignated through the SMP amendment process found in SMP Section 7.09.

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

C. With the exception of the area between the OHWM and the breakwater surrounding the Westport Marina in the Westhaven Cove, which is designated Marina Aquatic, all shoreline areas waterward of the OHWM shall be designated Aquatic. All areas outside of the breakwater surrounding the Marina shall be designated Aquatic. All shoreline areas landward of the OHWM shall be designated a shoreline environment designation other than Aquatic or Marina Aquatic.

D. Only one shoreline environment designation shall apply to a given shoreland area.

E. Unmapped areas of shoreline jurisdiction shall be assigned automatically an Urban Conservancy shoreline environment designation, until that portion of shoreline jurisdiction can be redesignated through the SMP amendment process found in SMP Section 7.09.

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4 GENERAL POLICIES & REGULATIONS

4.01 INTRODUCTION

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

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

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

4.02 ARCHAEOLOGICAL AND HISTORIC RESOURCES

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

4.02.01 POLICIES

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

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

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

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

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

4.02.02 REGULATIONS

A. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain a historic, cultural, or archaeological resource(s), the city shall require a cultural resource site assessment. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party.

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

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

4.03 ENVIRONMENTAL IMPACTS AND MITIGATION

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

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4.03.01 POLICY

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

4.03.02 REGULATIONS

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

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

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

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

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

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

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mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

4.04 CRITICAL AREAS AND SHORELINE VEGETATION CONSERVATION

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

Provisions for shoreline vegetation conservation within this section include regulations regarding plant clearing, vegetation restoration, and the control of invasive weeds and non-native species. These provisions apply to any activity, development, or use in shoreline jurisdiction unless otherwise stated, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. Provisions also apply to vegetation protection and enhancement activities.

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

4.04.01 POLICIES

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

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

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

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

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

F. Prohibit speculative vegetation removal within shoreline jurisdiction.

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

H. Allow the selective pruning of trees for safety and view protection unless specifically prohibited in SMP Appendix 2: Critical Areas Regulations.

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

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

4.04.02 REGULATIONS

A. General Regulations

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

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

3. Uses and development may be subject to both shoreline buffers and additional buffers due to presence of wetlands, Type S waters, habitats for federally listed threatened or endangered species, or other critical areas. These additional buffers would be measured from the edge of the critical area and not necessarily added to

the shoreline buffers unless the critical area was adjacent to or contiguous with the shoreline waterbody.

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

B. Shoreline Buffer Table

1. The required critical area buffers for waters classified as Type S by WDNR, as established in SMP Appendix 2: Critical Areas Regulations and modified by SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean, shall be considered shoreline buffers.
2. The buffers for all other critical areas shall be established in accordance with the standards found in SMP Appendix 2: Critical Areas Regulations.
3. New uses and development that are not water-dependent, water-related, or water-enjoyment, accessory to water-dependent, water-related, or water-enjoyment uses or development, or that do not facilitate public access to waters of the state generally will not be authorized in shoreline buffers, except those uses and activities allowed in SMP Section 4.04.02(D)(1). Some uses or developments not meeting the criteria above may be authorized through issuance of a shoreline variance.
4. SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean, establishes shoreline buffers by shoreline environment designation.
5. Shoreline buffers are measured landward from the OHWM in a horizontal direction perpendicular to the OHWM.

6. "N/A" in SMP Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel and Table 4-2: Shoreline Buffers – Pacific Ocean means the requirement is not applicable.
7. Subcategories for types of uses or activities include the following terms:
   a. Water-dependent means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall.
   b. Water-related means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant.
   c. Water-enjoyment means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use. Examples include public trails, golf courses, parks, etc.
   d. Non-water-oriented means everything else: a grocery store, etc.
8. The minimum shoreline buffer from the OHWM for a particular use is determined by finding the use and the most appropriate subcategory row and then finding the intersection with the appropriate shoreline environment designation column.
9. Building setbacks of 15 feet are required from the landward edge of the shoreline buffer. Building setbacks are used to protect the shoreline buffer from disturbance during construction and from the impacts related to use of a structure.

Table 4-1: Shoreline Buffers – Grays Harbor Estuary and Entrance Channel

Standard Shoreline Buffer from the OHWM (1)	High Intensity (2)	Shoreline Residential	Urban Conservancy
Aquaculture			
Water-dependent structures and uses	0 feet	0 feet	0 feet
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Boating, Port, and Water Access Facilities			
Water-dependent structures and uses	0 feet	0 feet	0 feet

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Standard Shoreline Buffer from the OHWM (1)	High Intensity (2)	Shoreline Residential	Urban Conservancy
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Commercial Development			
Water-dependent structures and uses	0 feet	N/A	N/A
Water-related and water-enjoyment structures and uses	50 feet	N/A	N/A
Non-water-oriented structures and uses	100 feet	N/A	N/A
Industrial Development			
Water-dependent structures and uses	0 feet	N/A	N/A
Water-related and water-enjoyment structures and uses	50 feet	N/A	N/A
Non-water-oriented structures and uses	100 feet	N/A	N/A
Mining	100 feet	150 feet	200 feet
Parking (accessory to a permitted use only)	100 feet	150 feet	200 feet
Recreational Development (3)			
Water-dependent structures and uses	0 feet	0 feet	0 feet
Water-related and water-enjoyment structures and uses	50 feet	75 feet	100 feet
Non-water-oriented structures and uses	100 feet	150 feet	200 feet
Residential Development	100 feet	150 feet	200 feet
Signs (Freestanding Structures)	100 feet	150 feet	200 feet
Transportation Facilities			
Bridges	0 feet	0 feet	0 feet
Expansion of roads with existing right-of-way	(4)	(4)	(4)
New transportation facilities related to permitted shoreline uses	(4)	(4)	(4)
Expansion or relocation of existing transportation facilities	(4)	(4)	(4)
Utilities (Primary)			
Water-dependent structures	0 feet	0 feet	0 feet
Water-related structures	50 feet	75 feet	100 feet
Non-water-oriented structures	(5)	(5)	(5)

Notes:

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

(2) All uses that are located next to the Marina Aquatic shoreline environment designation shall have a shoreline buffer of 0 feet. The building setback in SMP Section 4.04.02(B)(9) would not apply.

(3) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures except the following: wildlife viewing structures, permeable trails, or raised boardwalks may be allowed on a limited basis within shoreline and wetland buffers in accordance with the mitigation sequence found in SMP Section 4.03 and the provisions of SMP Appendix 2: Critical Areas Regulations.

(4) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.16.03.

(5) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.17.03.

Table 4-2: Shoreline Buffers – Pacific Ocean

Standard Shoreline Buffer from the OHWM (1)(2)	**Shoreline Residential**	**Urban Conservancy**
Mining	200 feet	200 feet
Parking (accessory to a permitted use only)	200 feet	200 feet
Recreational Development (3)		
Water-dependent structures and uses	0 feet	0 feet
Water-related and water-enjoyment structures and uses	100 feet	100 feet
Non-water-oriented structures and uses	200 feet	200 feet
Residential Development	200 feet	200 feet
Signs (Freestanding Structures)	200 feet	200 feet
Transportation Facilities		
Bridges for motorized and non-motorized uses	0 feet	0 feet
Expansion of roads with existing right-of-way	(4)	(4)
New transportation facilities related to permitted shoreline uses	(4)	(4)
Expansion or relocation of existing transportation facilities	(4)	(4)

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Standard Shoreline Buffer from the OHWM (1)(2)	Shoreline Residential	Urban Conservancy
Utilities (Primary)		
Water-dependent structures	0 feet	0 feet
Water-related structures	100 feet	100 feet
Non-water-oriented structures	(5)	(5)

Notes:

(1) The shoreline buffer shall be 200 feet landward of the winter marram grass line, except for water-dependent, water-related, or water-enjoyment structures and uses subject to the Dune Protection Zone, as defined in SMP Section 4.05.02(B).

(2) Reductions in the shoreline buffer along the Pacific Ocean from the OHWM are not authorized.

(3) Passive, water-oriented recreational uses are allowed within shoreline buffers; provided, the use does not include the construction of structures except the following: wildlife viewing structures and permeable trails or raised boardwalks may be allowed on a limited basis within shoreline and wetland buffers in accordance with the mitigation sequence found in SMP Section 4.03 and the provisions of SMP Appendix 2: Critical Areas Regulations.

(4) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.16.03.

(5) Only allowed within shoreline jurisdiction when no other option for the location of the facility exists in accordance with SMP Section 5.17.03.

C. Standard Shoreline Buffer Width Reduction Options

For shoreline buffers along the Grays Harbor Estuary and Entrance Channel, standard shoreline buffers may be reduced consistent with the mitigation sequence in SMP Section 4.03 and SMP Appendix 2: Section 2.06.08, using the following procedures. Only one buffer width reduction option may be utilized for a development proposal:

1. <u>Shoreline Buffer Averaging</u>

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

b. A mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E) with shoreline functions substituted for wetland functions. The applicant will need to demonstrate to the satisfaction of the Shoreline Administrator that the following criteria are addressed:

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

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

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

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

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

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

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

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

a. The width of a standard shoreline buffer may be reduced up to 25% administratively if shoreline buffer averaging in SMP Section 4.04.02(C)(1) is infeasible. A mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E) with shoreline functions substituted for wetland functions, and the applicant shall demonstrate to the satisfaction of the Shoreline Administrator that:

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1) A mitigation plan in accordance with SMP Appendix 2: Section 1.07(E) demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

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

3. <u>Common Line Provisions (Applicable to Single-Family Residential Only)</u>

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

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

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

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

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

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

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

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

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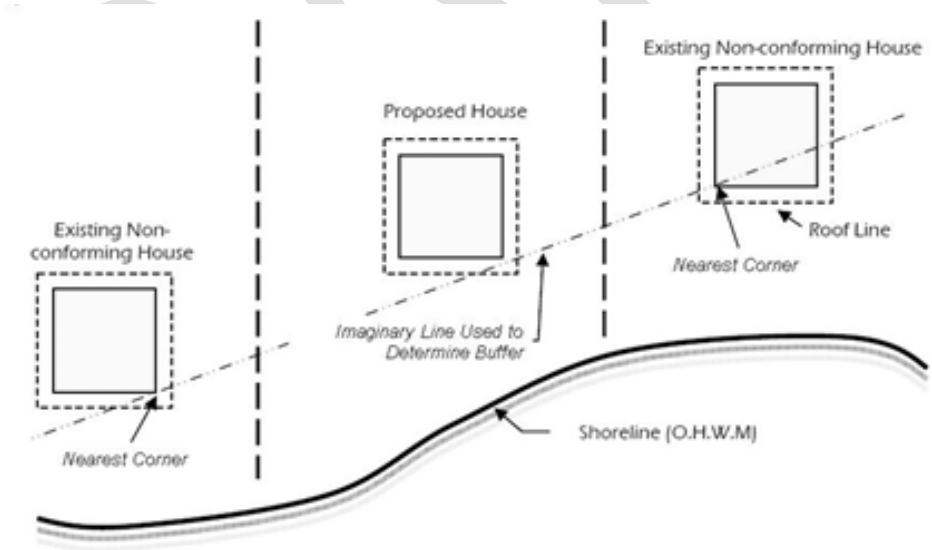
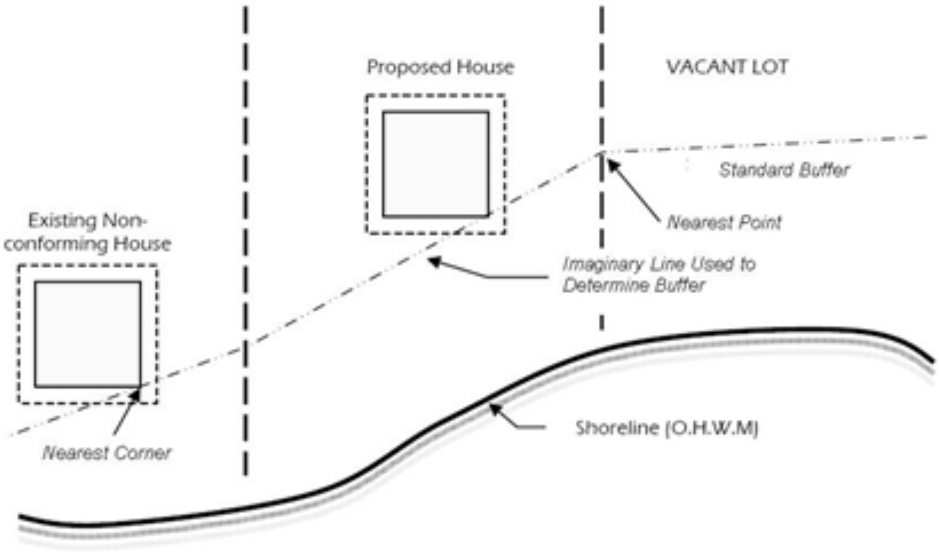
b) A common line calculated by the average of the adjacent residence's setback from the OHWM and the standard shoreline buffer for the adjacent vacant lot.

b. If the conditions in SMP Section 4.04.02(C)(2)(a) are met, the applicant may prepare a mitigation plan as outlined in SMP Appendix 2: Section 2.06.08 with shoreline functions substituted for wetland functions and demonstrate to the satisfaction of the Shoreline Administrator that:

1) A mitigation plan in accordance with SMP Appendix 2: Section 2.06.08 demonstrates that enhancing the shoreline buffer by removing invasive plants, planting native vegetation, installing habitat features, or other means will result in a shoreline buffer of a reduced width that functions at a higher level than the existing standard shoreline buffer; or

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





4. Interrupted Buffer Provisions

   a. The Shoreline Administrator may allow a reduced buffer where a legally established substantial improvement such as a road or structure serves to eliminate or greatly reduce the impact of a proposed activity upon a wetland or shoreline buffer.

   b. Where such a substantial improvement exists, the buffer may be reduced to the waterward edge of the existing substantial improvement.

   c. If a project has the potential to impact the functions of a shoreline or wetland, or its buffer, even though such an improvement exists, the Shoreline Administrator shall require the applicant to submit a critical area report to ensure that no-net loss of shoreline ecological functions will occur.

   d. As used within this section only, substantial improvements shall include developed public infrastructure such as roads and private improvements such as homes or commercial structures. Substantial improvements shall not include paved trails, sidewalks, private driveways, parking areas, or accessory buildings that do not require a building permit.

D. General Buffer Regulations

1. Shoreline Buffers

   The following new uses and activities are allowed within shoreline buffers without a shoreline variance, when located, constructed, and maintained in a manner that

minimizes adverse impacts on shoreline ecological functions, and when otherwise in compliance with this SMP:

a. Uses and activities outlined in SMP Appendix 2: Section 1.05: Allowed Activities, when consistent with all other applicable provisions of the SMP.

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

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

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

c. Essential Public Facilities. Essential public facilities, as defined by RCW 36.70A.200, may be located and expanded in the shoreline buffer if the use cannot be reasonably accommodated or accomplished outside of the standard or reduced shoreline buffer.

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

    2) These uses must be designed and located to minimize intrusion into the shoreline buffer and shall be consistent with the mitigation sequence in SMP Section 4.03 and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

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

d. Water-oriented education, scientific research, and passive recreational uses. These uses may include, but are not limited to fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling. Such uses are allowed within shoreline buffers provided the use does not include construction except as follows: wildlife viewing structures and permeable trails or raised boardwalks may be allowed within shoreline and wetland buffers in accordance with the mitigation sequence in SMP Section 4.03 and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

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

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

2. Critical Areas Buffers

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

E. Vegetation Conservation Standards

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

2. Authorized uses shall be designed to avoid removing existing native vegetation to the maximum extent feasible within shoreline and critical areas buffers consistent with safe construction practices, and other provisions of this section. Any impacts to existing native vegetation must follow the mitigation sequence in SMP Section 4.03 above and comply with SMP Appendix 2: Critical Areas Regulations, as modified in SMP Section 4.04.02(A) above.

3. Removal of vegetation within shoreline and critical areas buffers shall require a critical area report and/or a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Critical Areas Regulations. The Shoreline Administrator may require a critical area report for critical areas regulations exempt activities if necessary to document compliance with the provisions in the SMP.

4. Removal of native vegetation from shoreline buffers must be compensated at a minimum 1:1 ratio, which the Shoreline Administrator may increase if necessary to assure no net loss of shoreline ecological functions. Increases may be necessary to compensate for temporal losses, uncertainty of performance, and differences in ecological functions and values.

5. Mitigation ratios shall be based on a scientifically valid measure of habitat function, value, and area. Critical area reports shall include a description of how the proposal

complies with the mitigation sequence in SMP Section 4.03 and how mitigation areas will be monitored and maintained to ensure no net loss of shoreline ecological functions.

6. Vegetation conservation standards shall not apply retroactively to existing, legally established uses and developments. Existing, lawfully established landscaping and gardens within shoreline jurisdiction may be maintained in their existing condition. In the context of this regulation, maintenance includes, but is not limited to, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning, and replacement planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas.
7. Clearing of invasive, noxious non-native vegetation in shoreline buffers is allowed by hand labor or with light equipment. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC is allowed in a manner consistent with Washington State Noxious Weed Control Board regulations. Native vegetation shall be promptly reestablished in the disturbed area.
8. In shoreline buffers, pruning shall comply with the National Arborist Association pruning standards. Trees that are felled in shoreline buffers should be left in place. The exception to this regulation is that hazard trees, which are dead, diseased, leaning, or structurally unsound trees that the landowner deems are an emergency, may be removed at any time.
9. As of the date of adoption of this program, there are no state, federal, or other flood hazard agency documents that govern licensed or certified flood hazard reduction measures. However, if such measures are instituted in the future, in those instances where the management of vegetation required by this section conflicts with such documents governing licensed or certified flood hazard reduction measures, the requirements of the SMP will not apply. The applicant shall submit documentation of conflicting provisions with a shoreline permit application and shall comply with all other provisions of the SMP that are not strictly prohibited by certifying or licensing agencies.

F. Revegetation

1. Surfaces that are cleared of vegetation in shoreline or critical area buffers, aside from normal maintenance described in SMP Section 4.04.02(E)(6), and are not developed must be replanted within one year. Replanted areas shall be planned and maintained such that within three years the vegetation cover is at least 90% reestablished. Areas that fail to reestablish vegetation adequately shall be replanted

with approved plant materials until the plantings are viable. Revegetation areas will be maintained in good growing condition, and kept free of noxious weeds, and with removal of dead or dying plants for a five-year monitoring period.

2. Vegetation shall be planted in similar quantities and species to what existed previously on the site to achieve no net loss of ecological function. Disturbed ornamental landscapes, including grass, may be replaced with similar species, unless mitigation is necessary to address project impacts.
3. Native plants are preferred for all revegetation. Non-native species on the Grays Harbor County's list of invasive species shall not be allowed.

G. Aquatic Vegetation Control

1. Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including WDFW requirements such as the Aquatic Plants and Fish Pamphlet, which serves as the Hydraulic Project Approval (HPA) for some types of aquatic weed or plant control and removal.
2. The application of herbicides or pesticides in waterbodies including wetlands or ditches requires a permit from Ecology and may require preparation of a SEPA checklist for review by other agencies. The applicator must have a pesticide applicator license from the Washington State Department of Agriculture.

4.05 DUNE MANAGEMENT

This section applies to dunes associated with the Pacific Ocean from the south jetty in the north to the Westport southern city limit. Dune modification may include the removal or addition of a material to a dune, the reforming, or reconfiguration of a dune, or the removal or addition of vegetation that will alter a dune's shape or sediment migration.

4.05.01 POLICIES

A. Manage dunes to reduce hazards to human life and property from natural or human-induced actions.

B. Provide for diverse and appropriate use of dune areas consistent with their ecological, recreational, aesthetic, and economic values.

4.05.02 REGULATIONS

A. General

1. Dunes in shoreline jurisdiction shall be managed to conserve, protect, develop where appropriate, and restore where suitable the resources and benefits of the beach.
2. Development in dune areas shall be set back according to shoreline environment designation to minimize impacts to natural, functional, ecological, and aesthetic qualities of the dunes. Refer to Table 4-2: Shoreline Buffers – Pacific Ocean in SMP Section 4.04.02(B).
3. The height of development in the dune areas shall be according to Table 5-3: Shoreline Height Limits – Pacific Ocean. Dune modification shall be allowed consistent with state and federal regulations when it will not result in a net loss of shoreline ecological functions.

B. Dune Protection Zone

1. The dune protection zone is located 200 feet landward of the winter marram grass line.
2. The permitted uses in the dune protection zone are public access roads, navigation aids, public recreational buildings, and public or private foot pathways. New shoreline modifications and structures to control erosion are permitted, subject to a conditional use permit. All uses not specifically authorized as a permitted or conditional use shall be prohibited and shall not be authorized.

4.06 FLOOD HAZARD MANAGEMENT

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

Measures to reduce flood hazards may consist of nonstructural measures, such as shoreline buffers, land use controls, wetland restoration, use relocation, biotechnical measures, and stormwater management programs; and structural measures, such as dikes, levees,

revetments, floodwalls, dams, and elevation of structures consistent with the National Flood Insurance Program.

The city currently implements flood hazard management through the following:

- The city of Westport Comprehensive Plan;
- WMC Chapter 15.12: Flood Damage Protection;
- The city of Westport Critical Areas Ordinance (CAO);
- The Grays Harbor County Comprehensive Flood Hazard Management Plan; and
- The Grays Harbor County All Hazard Mitigation Plan.

4.06.01 POLICIES

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

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

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

D. Require new publicly funded dike or levee projects to dedicate and improve public access, subject to the exceptions in SMP Section 4.08.

E. Consider removal or relocation of structures in flood-prone areas , where feasible, when evaluating flood control measures where feasible.

4.06.02 REGULATIONS

A. All proposed flood hazard management projects shall comply with WMC Chapter 15.12 Flood Damage Prevention, where applicable.

B. Development in floodplains shall not increase flood hazards.

C. New development in shoreline jurisdiction, including subdivision of land, shall not be allowed when it would be reasonably foreseeable that the development would require structural flood hazard reduction measures.

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

   1. No net loss of ecological functions will occur;

2. A scientific and engineering analysis confirms they are necessary to protect existing development;
3. Nonstructural flood hazard management measures are not feasible; and
4. Appropriate vegetation conservation actions are undertaken as outlined in SMP Section 4.04.

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

F. New publicly-funded structural flood hazard management measures shall dedicate and improve public access except when those improvements would:
1. Cause health or safety hazards or security problems;
2. Result in significant immitigable ecological impacts;
3. Create a conflict of uses; or
4. Cost a disproportionate or unreasonable amount relative to the total long-term cost of the development.

G. Development in the High Velocity (V) zones, as defined in WMC Chapter 15.12 shall not cause a net loss of ecological function and is limited to:
1. Actions that protect or restore ecosystem-wide processes or ecological functions;
2. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in an unreasonable and disproportionate cost;
3. Repair and maintenance of an existing legal use, provided that the repair and maintenance does not cause significant ecological impacts or increase flood hazards to other uses;
4. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition and the measure does not interfere with hydrological and geomorphological processes normally acting in natural conditions.

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4.07 OCEAN MANAGEMENT

This section implements the Ocean Resources Management Act, (RCW 43.143.005 – RCW 43.143.030), enacted in 1989 by the Washington State Legislature, and further implemented by WAC 173-26-360. The law requires Ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local SMPs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific Counties.

The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development, and prepare local and state agencies for new ocean developments and activities. These guidelines apply to ocean and marine-based industries and activities within the city's shoreline jurisdiction.

4.07.01 POLICIES

A. Manage use of ocean resources to reduce hazards to human life and property from natural or human-induced actions.

B. Provide for diverse and appropriate use of the ocean consistent with its ecological, recreational, aesthetic, and economic value.

C. Coordinate management of ocean resources with local, state, federal, and tribes.

4.07.02 REGULATIONS

A. Applicability

1. This section is consistent with the purpose and intent of WAC 173-26-360, Ocean Resources, and applies to coastal waters and their adjacent uplands.
2. The applicability of the SMP shall not alter any treaty rights, regulate fisheries, limit recreational use, interfere with the issuance of leases on state-owned aquatic lands, or supersede any other applicable state and federal laws beyond what the scope of the SMA allows.

B. Relationship to Marine Spatial Planning

1. This SMP implements the provisions of WAC 173-26-360 in coordination with marine spatial planning authorized under the Marine Waters Planning and Management Act, Chapter 43.372 RCW.
2. While marine spatial planning is a planning process still underway, the city will strive to consider and integrate informational resources and tools generated through that

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process into future amendments of the SMP. This may include evaluating the aquatic shoreline environment designation in the Pacific Ocean to select appropriate environments for ocean resources development that best meets the intent of the SMA, Ocean Resources Management Act (ORMA), and Chapter 173-26 WAC.

C. Permit Criteria

1. Ocean or coastal uses and activities may be permitted as a shoreline substantial development, variance, or conditional use only if the criteria of RCW 43.143.030(2) listed below are met or exceeded:
    a. There is a demonstrated significant local, state, or national need for the proposed use or activity;
    b. There is no reasonable alternative to meet the public need for the proposed use or activity;
    c. There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;
    d. All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Grays Harbor estuary;
    e. All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;
    f. Compensation is provided to mitigate adverse impacts to coastal resources or uses;
    g. Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and
    h. The use or activity complies with all applicable local, state, and federal laws and regulations.
    i. The procedures for project permit applications for all ocean resources development shall conform to SMP Chapter 7: Shoreline Administration.

D. General Ocean Uses Guidelines

The following guidelines apply to all ocean uses, their service, distribution, and supply activities and their associated facilities that require shoreline permits.

1. Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.
2. Ocean uses that will have less adverse social and economic impacts on coastal uses and communities shall be given priority over uses and activities that will have more such impacts.
3. When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster shall be given priority.
4. The alternatives considered to meet a public need for a proposed use shall be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives shall be considered.
5. Chapter 197-11 WAC, the SEPA rules, provides guidance in the application of the permit criteria and guidelines of this section. The range of impacts to be considered shall be consistent with WAC 197-11-060(4)(e) and -792(2)(c). The determination of significant adverse impacts shall be consistent with WAC 197-11-330(3) and -794. The sequence of actions described in WAC 197-11-768 shall be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.
6. Impacts on commercial resources, such as the crab fishery, on non-commercial resources, such as environmentally critical and sensitive habitats and on coastal uses, such as loss of equipment or loss of a fishing season, shall be considered in determining compensation to mitigate adverse environmental, social, and economic impacts to coastal resources and uses.
7. Allocation of compensation to mitigate adverse impacts to coastal resources or uses shall be based on the magnitude and/or degree of impact on the resource, jurisdiction, and use.
8. Rehabilitation plans and bonds prepared for ocean uses shall address the effects of planned and unanticipated closures, completion of the activity, reasonable anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.
9. Ocean uses and their associated coastal or upland facilities shall be located, designed, and operated to prevent, avoid, and minimize adverse impacts on

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migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats. Such as areas may include breeding, spawning, nursery, foraging areas, and shorelands, and areas of high productivity for marine biota such as upwelling and estuaries.

10. Ocean uses shall be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, designated recreation areas and the city primary dune system.
11. Ocean uses and their associated facilities shall be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with Chapter 27.34 RCW. Permits in general shall contain special provisions that require permittees to comply with Chapter 27.53 RCW if any archaeological sites or archaeological objects such as artifacts and shipwrecks are discovered.
12. Ocean uses and their distribution, service, and supply vessels and aircraft shall be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.
13. Ocean use service, supply, and distribution vessels and aircraft shall be routed to avoid environmentally critical and sensitive habitats, such as sea stacks and shorelands, preserves sanctuaries, bird colonies, and migration routes, during the critical times, those areas or species could be affected.
14. In location and designing associated onshore facilities, special attention shall be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities' adequate protection from explosions, spills, and other disasters.
15. Ocean use activities in accessory facilities shall be located so they do not obstruct views of navigational aids.
16. Ocean uses and their associated facilities shall be located and designed to minimize impacts on existing water-dependent businesses and existing land transportation routes to the maximum extent feasible.
17. Onshore facilities associated with ocean uses shall be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities shall be located there.

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18. Attention shall be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.
19. Special attention shall be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.
20. Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture shall be considered in avoiding and minimizing adverse social and economic impacts.
21. Special attention shall be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution, and contaminated sediments on the marine, estuarine, or upland environment. Such attention shall be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.
22. Pre-project environmental baseline inventories, assessments, and monitoring of ocean uses shall be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses, and coastal communities or the technology involved is likely to change.

E. Allowed Ocean Uses

1. SMP Table 4-3: Allowed Ocean Uses below establishes the ocean management uses and development allowed within the aquatic shoreline environment designation. Where there is a conflict between the table and the written provisions in the SMP, the written provisions shall apply.
2. Authorized uses and development are subject to the policies and regulations of the SMP and are only allowed in shoreline jurisdiction where allowed by the underlying zoning.
3. Uses and development identified as “Permitted” require either a shoreline substantial development permit in accordance with SMP Section 7.04.01 or an exemption from the requirement to obtain such a permit in accordance with SMP Section 7.04.04. If any part of a proposed development is not eligible for an exemption, then a shoreline substantial development permit is required for the entire proposed development.

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4. Uses identified as "Conditional" require a shoreline conditional permit pursuant SMP Section 7.04.02. Any use not listed in SMP Table 4-3: Allowed Ocean Uses shall require a shoreline conditional use permit.
5. Uses identified as "Prohibited" are not allowed in shoreline jurisdiction.
6. Accessory uses and structures shall be subject to the same shoreline permit process and SMP provisions as their primary use. An accessory use shall not be established prior to the establishment of its primary use.

Table 4-3: Allowed Ocean Uses

Shoreline Uses (1)	Aquatic
Key: P = Permitted Use, C = Conditional Use, X = Prohibited	
Oil and Gas Development	X
Ocean Energy Development	C
Ocean Mining	C
Ocean Disposal	C
Ocean Transportation	C
Ocean Research (2)	C
Ocean Salvage	C

Notes:

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

(2) Ocean research requiring the construction of permanent structures requires a conditional use permit.

F. Oil and Gas Development

1. Oil and gas development and activities are prohibited.

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G. Ocean Energy Development

1. Ocean energy development means the production of energy in a usable form directly in or on the ocean rather than extracting a raw material for use in producing energy in a readily usable form elsewhere. Ocean energy generation sources may include, but are not limited to, wind, wave, tidal, and ocean thermal energy conversion systems.
2. Ocean energy development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The location, construction, and operation of energy-producing uses shall not create detrimental effects on beach accretion or erosion and wave processes.
4. Project permit applicants for ocean energy development shall prepare assessments that evaluate the effect of energy producing uses on upwelling and other oceanographic and ecosystem processes.
5. Associated energy distribution facilities and lines for ocean energy development shall conform to the provisions of SMP Section 5.17 and locate in existing utility rights-of-way and corridors to the greatest extent feasible, rather than creating new corridors.

H. Ocean Mining

1. Ocean mining development means the extraction of metal, mineral, sand, and gravel resources from the sea floor.
2. Ocean mining development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The location and operation of ocean mining development shall avoid detrimental effects on ground fishing or other renewable resource uses.
4. The location and operation of ocean mining development shall avoid detrimental effects on beach erosion or accretion processes.
5. Project permit applicants for ocean mining development shall provide sufficient analysis by a qualified expert regarding habitat recovery rates for affected sea floor areas.

I. Ocean Disposal

1. Ocean disposal development means the deliberate deposition or release of material at sea, such as solid wastes, industrial wastes, radioactive wastes, incinerator

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residues, dredged materials, vessels, aircrafts, ordnance, platforms, or other manmade structures.

2. Ocean disposal development shall not result in a net loss of ecological functions and ecosystem-wide processes.
3. The storage, loading, transporting, and disposal of materials shall in conform to local, state, and federal requirements for protection of the environment.
4. Ocean disposal shall occur only in sites approved by Ecology, the Washington State Department of Natural Resources (WDNR), the United States Environmental Protection Agency, and the USACE.
5. The location and design of ocean disposal sites shall prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource development. Ocean disposal sites for the primary purpose of habitat enhancement may locate in a wider variety of habitats, but the general intent of the guidelines shall still apply.

J. Ocean Transportation

1. Ocean transportation includes such uses as shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports. The following guidelines address transportation activities that originate or conclude in Washington's coastal waters or are transporting a non-renewable resource extracted from the outer continental shelf off Washington.
2. An assessment shall be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves, and sanctuaries.
3. When feasible, hazardous materials such as oil, gas, explosives, and chemicals shall not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such reasonable route exists, the routes used shall pose the least environmental risk.
4. Transportation uses shall be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserve to the maximum extent feasible.

K. Ocean Research

1. Ocean research activities involve scientific investigation that further knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels, which occur in exploration and ocean uses or developments, a case-by-case determination of the applicable regulations may be necessary.
2. Ocean research shall be encouraged to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.
3. Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of Chapter 173-15 WAC – Permits for oil or natural gas exploration activities conducted from state marine waters.
4. Ocean research shall be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.
5. Ocean research shall be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.
6. Public dissemination of ocean research findings shall be encouraged.

L. Ocean Salvage

1. Ocean salvage uses share characteristics of other ocean uses and they involve relatively small sites occurring intermittently. Historic shipwreck salvage, which combines aspects of recreation, exploration, research, and mining, is an example of such a use.
2. Nonemergency marine salvage and historic shipwreck salvage activities shall be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.
3. Nonemergency marine salvage and historic shipwreck salvage activities shall not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

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4.08 PUBLIC ACCESS

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

4.08.01 POLICIES

A. Protect and enhance the public's visual and physical access to shorelines of the state to the greatest extent feasible.

B. Increase the amount and diversity of public access opportunities to shorelines where consistent with the natural shoreline character, property rights, and public safety.

C. Maintain, enhance, and increase public access in accordance with the following priorities unless found infeasible:

   1. Maintain existing public access sites and facilities, rights-of-way, and easements.
   2. Enhance public access opportunities on existing public lands and easements.
   3. Acquire property or easements to add opportunities for public access to shorelines.
   4. Encourage public access to shorelines as part of shoreline development.

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

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

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

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

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

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

J. The city's Comprehensive Parks and Recreation plan should consider and identify existing public access points and potential future access points.

4.08.02 REGULATIONS

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

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

1. Shoreline recreation in accordance with SMP Section 5.13;
2. New structural public flood hazard reduction measures, such as dikes and levees in accordance with SMP Section 4.06;
3. Shoreline development by public entities, including the city, state agencies, and public utility districts; and
4. All other development not subject to the restrictions in SMP Section 4.08.02(C).

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

1. The subdivision of land into four or fewer parcels;
2. A development consisting of a building containing four or fewer dwelling units;
3. Unavoidable health or safety hazards to the public exist that cannot be prevented by any feasible means;
4. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
5. Public access results in significant environmental impacts that cannot be mitigated;
6. Significant undue and unavoidable conflict between any access provisions and the proposed or adjacent uses would occur and cannot be mitigated;
7. The cost of providing the access, easement, or amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
8. Legal limitations preclude public access;
9. The subject site is separated from the shoreline waterbody by intervening public or private improvements such as roads, existing structures, and/or other similar improvements, and public access is not desirable or feasible; or

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10. Adequate public access already exists along the subject shoreline and there are no gaps or enhancements that need to be addressed;

D. In addressing SMP Section 4.08.02(C) above, the applicant must demonstrate that all feasible alternatives to allow public access have been exhausted, including:

1. Regulating access by such means as limiting hours of use to daylight hours;
2. Separating uses by such means as fences, terracing, landscaping, signage, etc.;
3. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system; or
4. Where physical access is not feasible, visual access is provided instead.

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

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

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

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

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

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

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

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

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

1. Public lands such as street ends, rights-of-way, and utilities shall provide visual access to the water and shoreline.
2. Development on or over the water shall be constructed as far landward as feasible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

4.09 WATER QUALITY

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

4.09.01 POLICIES

1. Protect shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered by the city.
2. Prevent impacts to water quality and stormwater quantity that would result in net loss of shoreline ecological function, significant impacts to aesthetic qualities, or recreational opportunities.

4.09.02 REGULATIONS

1. All development in shoreline jurisdiction shall comply with the appropriate requirements of the SMP and the applicable city stormwater management programs and regulations..

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5 SPECIFIC SHORELINE USE POLICIES & REGULATIONS

5.01 INTRODUCTION

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

5.02 GENERAL SHORELINE USE

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

5.02.01 POLICIES

A. Prohibit agricultural, forest practice uses, and parking as a primary use in the city's shoreline jurisdiction.

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

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

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5. Limit non-water-oriented uses to those locations where the uses described above are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA.

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

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

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

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

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

5.02.02 REGULATIONS

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

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

B. Development shall comply with the most restrictive bulk and dimensional requirements in WMC Title 17 or SMP Section 4.04.02(B).

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

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

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

F. Agriculture, forest practice uses, and parking as a primary use (see SMP Section 5.12) are prohibited in shoreline jurisdiction.

5.03 ALLOWED SHORELINE USES

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

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

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

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

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

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

G. See SMP Table 4-3: Allowed Ocean Uses in SMP Section 4.07 for ocean management uses.

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

Shoreline Uses (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic (3)	Aquatic (3)
Key: P = Permitted Use, C = Conditional Use, X = Prohibited					
Agriculture	X	X	X	X	X
Aquaculture	P	X	X	P	P
Boating, Port, and Water Access Facilities					
Boat Ramps and Launches	P	X	C	P	C (4)
Boat Lifts and Canopies	P	X	X	P	X
Marina (5)	P	X	X	P	X
Marine Terminals and Mooring Structures	P	X	X	P	X
Private Single / Joint-Use Docks and Piers	P	X	X	P	X
Public Piers / Docks	P	X	X	P	C (6)
Commercial Development	P	X	X	X	X
Forest Practices	X	X	X	X	X
Industrial Development	P	X	X	X	X
Mining	P	C	C	X	C (7)
Parking (8)	P	P	P	X	X
Recreational Development (9)					
Water-oriented	P	P	P	P (10)	P (10)
Non-water-oriented	P	P	P	X	X
Trails	P	P	P	X	X
Residential Development (11)(12)	P	P	P	X	X
Signs (Separate Structures)	P	P	P	X	X
Transportation Facilities					
Airports	P	X	X	X	X
Bridges for motorized and non-motorized uses	C	C	C	C	C
Expansion of roads with existing right-of-way	P	P	P	X	X
New transportation facilities related to permitted shoreline uses	P	P	P	X	X
Expansion or relocation of existing transportation facilities	P	C	C	X	X
Utilities (Primary)					

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Shoreline Uses (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic (3)	Aquatic (3)
Solid waste disposal or transfer sites	X	X	X	X	X
Other	C	C	C	C	C

Notes:

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

(2) For uses allowed within the dune protection zone next to the Pacific Ocean, refer to SMP Section 4.05.02.

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

(4) Only public boat ramps and launches for nonmotorized craft are allowed in the Aquatic shoreline environment designation in the Bayfront reaches. No boat ramps or launches are allowed in Pacific Ocean or Half Moon Bay reaches.

(5) There is no feasible area within the city for the development of a new marina outside of the existing Westport Marina in the Westhaven Cove. No additional marinas shall be allowed in the city.

(6) Only public piers or docks for nonmotorized craft or wildlife viewing are allowed in the Aquatic shoreline environment designation in the Bayfront reaches. Private piers and docks are not allowed outside the Westport Marina. No public piers or docks are allowed in Pacific Ocean or Half Moon Bay reaches.

(7) New mining waterward of the OHWM shall not be permitted unless it meets the requirements of SMP Section 5.11.02(D)

(8) Parking is allowed as an accessory use to an approved use in SMP Section 5.12. Stand-alone parking facilities not supporting an authorized primary use, such as the Westport Marina in the Westhaven Cove, are prohibited in shoreline jurisdiction.

(9) Concession stands, gift shops, and interpretive centers are permitted as accessory uses when limited to serving a related, permitted recreational use in the High Intensity, Shoreline Residential, and Urban Conservancy shoreline environment designations.

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(10) Only water-dependent uses are permitted in the Marina Aquatic and Aquatic shoreline environment designations.

(11) Home occupations, as established by WMC 17.36.040, are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.

(12) Vacation rental dwellings, as established by WMC 17.22, are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.

5.04 DEVELOPMENT STANDARDS

The following development standards apply in addition to the buffer and structural setback requirements included in SMP Section 4.04: Critical Areas and Shoreline Vegetation Conservation.

5.04.01 DENSITY AND LOT COVERAGE

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

5.04.02 SHORELINE HEIGHT STANDARDS

A. To limit the obstruction of views from public property or residences, Table 5-2: Shoreline Height Limits – Grays Harbor Estuary and Entrance Channel and Table 5-3: Shoreline Height Limits – Pacific Ocean establish the maximum shoreline height for new or expanded buildings or structures above average grade level in shoreline jurisdiction.

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

C. If the height of a development in the High Intensity shoreline environment designations exceeds 35 feet, it may be increased to the underlying zoning district height limit provided the following criteria are addressed:

1. The increase does not substantially block views from upland residential properties as demonstrated by the View Corridor Process in SMP Section 504.02(D);
2. The increase will serve overriding considerations of the public interest pursuant to RCW 90.58.320;
3. Greater height is demonstrated to be needed for an essential element of an allowed use;
4. The project includes compensating elements that substantially enhance the visual and physical public access to the shoreline, if required; and
5. It is demonstrated that no net loss of shoreline ecological function will be achieved.

Table 5-2: Shoreline Height Limits – Grays Harbor Estuary and Entrance Channel

Standard	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Shoreline Height (1)	35 feet (2)(3)	35 feet	35 feet	35 feet

Notes:

(1) Single-family residences shall not be constructed over 30 feet in height in the MUTC-1 or MUTC-2.

(2) Maximum shoreline height may be increased to 50 feet in the Mixed-Use Tourist Commercial 2 (MUTC-2) zoning designation and may be increased above 50 feet with approval of a zoning variance and a shoreline variance.

(3) Maximum shoreline height may be increased to 50 feet in the Marine Industrial (MI) zoning designation and may be increased above 50 feet with approval of a zoning variance and shoreline variance and a conditional use permit under WMC Title 17.

Table 5-3: Shoreline Height Limits – Pacific Ocean

Standard	Shoreline Residential	Urban Conservancy	Aquatic
Maximum Shoreline Height	15 feet (1)	15 feet (1)	0 feet

Notes:

(1) Within the Dune Protection Zone, as defined in SMP Section 4.05.02(B), the maximum shoreline height may be increased for navigation aids or public facilities with a shoreline variance, which addresses access, maintenance, and visual impact.

D. View Corridor Review Process

1. The following view analysis standards and procedures apply to the view corridor review process:

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

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

      2) Available view corridors;

      3) Surface water views lost, compromised, or retained; and

      4) The applicant shall review the views of a substantial number of residences in the area adjoining the project area and 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. For phased developments, the view analysis shall be prepared in the first phase and include all proposed buildings for all phases.

2. Applicants for new or expanded buildings or structures exceeding 35 feet in height above average grade level in the High Intensity shoreline environment designation shall address impacts to views from substantial numbers of residences and public areas, identified in the view analysis submitted by the applicant as follows:

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

   b. To determine appropriate view corridor location, the Shoreline Administrator shall review shoreline public access plans, location of state or federally

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designated scenic highways, government-prepared view studies, SEPA documents, or applicant-prepared studies.

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

5.05 AGRICULTURE

New agriculture uses are prohibited in the city's shoreline jurisdiction.

5.06 AQUACULTURE

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals, excluding upland finfish facilities, which are prohibited in the city's shoreline jurisdiction. Aquaculture is a preferred use in shoreline jurisdiction. Locations for aquaculture are relatively restricted due to requirements for water quality, temperature, flows, oxygen content, and adjacent land uses. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline.

5.06.01 POLICIES

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

B. Aquaculture should not be permitted in locations that would result in a net loss of shoreline ecological functions, adversely affect native eelgrass beds (Zostera marina) and macro algae, or significantly conflict with navigation and other water-dependent uses.

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

D. Encourage the location of commercial geoduck aquaculture in shoreline areas where sediments, topography, land, and water access supports growing and harvesting activities without significant clearing and grading.

E. Manage the permitting process for new aquaculture activities to minimize application requirements by avoiding redundancy with other state and federal provisions.

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

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

5.06.02 REGULATIONS

A. Applicability

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

B. Location

1. Aquaculture is water-dependent activity that when consistent with control of pollution and prevention of damage to the environment, is a preferred use of water shoreline.
2. Water-dependent portions of aquaculture facilities and their necessary accessories may be located waterward of the OHWM in the Aquatic or Marina Aquatic shoreline environment designations or in the shoreline buffer of the High Intensity shoreline environment designation. Water intakes and discharge structures, water and power conveyances, and fish collection and discharge structures are considered water-dependent or accessory to water-dependent facilities.
3. All other elements of aquaculture facilities shall be located outside the shoreline buffer, unless those facilities are deemed water-related and proximity to the water-dependent project elements is critical to implementation of the facility's purpose.

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4. Sites shall be selected to avoid or minimize alteration of the shoreline. Applicants for aquaculture operations shall be required to demonstrate that impacts to critical areas and habitats are avoided and minimized consistent with SMP Section 4.04, and impacts on existing public access points, navigable waters, and other water-dependent uses are limited.
5. Aquaculture facilities shall be designed and located so as not to spread disease to native aquatic life, establish new non-native species that cause significant ecological impacts, or significantly affect the aesthetic qualities of the shoreline.

C. General Requirements

1. New aquaculture proposals shall comply with mitigation sequence in SMP Section 4.03. Aquaculture uses that would have a significant adverse impact on natural shoreline processes, result in a net loss of shoreline ecological functions, or significantly conflict with navigation and other water-dependent uses should not be permitted.
2. New aquatic species that were not previously found or cultivated in the shoreline jurisdiction shall not be introduced without prior written approval of the WDFW and the Washington State Department of Health.
3. Ongoing maintenance, harvest, replanting, changing culture techniques, or species does not require a shoreline permit or exemption unless the proposal introduces a new species or culture technique into Grays Harbor that has significant adverse environmental impacts. Aquaculture areas may lie dormant for multiple years due to a variety of reasons. Dormant areas of aquaculture farms are considered ongoing and not discontinued, and the resumption of active cultivation in such areas shall not be considered an expansion, change, enlargement, or alteration.
4. Dormant areas include property that was acquired under the Bush or Callow Acts of 1895; areas undergoing crop rotation; and areas dormant due to market conditions, seed, or juvenile availability, past and current pest infestations or control issues, water quality issues, and other cultivation factors.
5. No processing of aquaculture products, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing facilities shall be located on land. If within shoreline jurisdiction, such facilities shall be subject to the applicable policies and regulations of SMP Section 5.06 and SMP Section 5.10.

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6. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures or equipment shall be removed or repaired promptly by the owner.
7. Aquacultural uses shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated, and maintained to minimize odor and noise.
8. Aquaculture facilities shall not substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated, and maintained to blend into their surroundings.

D. Commercial Geoduck Aquaculture

1. While the city does not currently have commercial geoduck aquaculture operations, new uses shall meet the following provisions:
    a. In addition to the siting provisions of SMP Section 5.06.02(B), commercial geoduck aquaculture should only be allowed where sediments, topography, land and water access support geoduck aquaculture operations without significant clearing or grading;
    b. The planting, growing, and harvesting of farm-raised geoduck clams requires a substantial development permit if a specific project or practice causes substantial interference with normal public use of the surface waters, but not otherwise;
    c. New commercial geoduck aquaculture shall require a conditional use permit, except where the applicant proposes to convert existing non-geoduck aquaculture to geoduck aquaculture;
    d. All subsequent cycles of planting and harvest shall not require a new conditional use permit;
    e. Conditional use permits for geoduck aquaculture acknowledge operators have a right to harvest geoduck once planted;
    f. A single conditional use permit may substitute for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline aquatic environment;
    g. Applications for a conditional use shall contain the information identified under WAC 173-26-201(b)(iv)(F); and

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h. Evaluation of applications for commercial geoduck operations by the Shoreline Administrator shall consider the provisions listed under WAC 173-26-201(b)(iv)(L).

E. Application Requirements

1. Commercial aquaculture shall conform to all applicable state and federal regulations. The city may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements.
2. Additional studies or information may be required by the city, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation and overwater structures.
3. The city shall provide public notice to affected tribes and all property owners within 300 feet of the proposed project boundary.

5.07 BOATING, PORT, AND WATER ACCESS FACILITIES

This section applies to all structures and uses that facilitate water access or the launching or mooring of vessels, including all public and private docks, launch ramps, marinas, piers, and port development. In addition, this section applies to the marine terminals and moorage structures of the Westport Marina in the Westhaven Cove that are operated by the Port of Grays Harbor. There is no feasible area within the city for the development of a new marina outside of the existing Westport Marina in the Westhaven Cove. No additional marinas shall be allowed in the city.

While the construction of new boating, port, and water access facilities is prohibited in the Pacific Ocean and Half Moon Bay shoreline reaches of the city and will likely only occur within the existing Westport Marina, the city allows for public boat ramps, launches, piers and docks for nonmotorized craft and wildlife viewing in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.

5.07.01 POLICIES

A. Recognize there is not sufficient area within the city for the development of a new marina or an expansion of the existing marina beyond its current boundaries. Allow for

the use or modification of the existing marina within its current boundaries in compliance with the goals and policies of the SMP.

B. Recognize that boating, port, and water access facilities are water-dependent uses and should be given priority for shoreline location to facilitate public access.

C. Site, design, construct, and operate new boating, port, and water access facilities to incorporate best management practices (BMPs) and ensure no net loss of shoreline ecological functions.

D. Balance the encouragement of public access and the protection of ecological functions in the construction of new boating, port, and water access facilities.

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

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

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

H. Minimize impacts to adjacent uses and users by locating, designing, constructing, and maintaining new boating facilities, port, and water access facilities to avoid aesthetic impacts to adjacent land uses, and impacts to public visual access to the shoreline. If impact avoidance is not feasible, require mitigation.

I. Protect other water-dependent uses, such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing, navigation, and other recreation opportunities, when locating, designing, and operating all boating, port, and water access facilities.

J. Encourage the construction and operation of new nonmotorized boating and water access facilities to allow public access, enjoyment of shorelines, and viewing of wildlife in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.

K. Prohibit the construction of new boating, port, and water access facilities in the Pacific Ocean and Half Moon Bay shoreline reaches of the city.

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

M. Ensure the designation of sufficient land to accommodate water-oriented port development and plan for port services, such as ferry and cargo handling facilities, within the existing marina footprint and adjacent upland areas.

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

O. Encourage cooperative use of docking, parking, cargo handling, and storage facilities in waterfront port development areas.

P. Expansion or redevelopment of water-dependent port facilities and areas should be encouraged, provided they result in no net loss of shoreline functions.

Q. Encourage viewing of port development uses from viewpoints, and similar public facilities that do not interfere with operations or endanger public health and safety.

5.07.02 REGULATIONS

A. Location Standards

1. Allow new boating, port, and water access facilities in the Westport Marina where adequate transportation and utility services are available, or can be provided concurrently.
2. New boating, port, and water access facilities shall not be located on the Pacific Ocean and Half Moon Bay.
3. Allow the construction and operation of new nonmotorized boating and water access facilities for public access, enjoyment of shorelines, and viewing of wildlife in the Aquatic and High Intensity shoreline environment designations in the Bayfront reaches.
4. New boating, port, and water access facilities shall maintain the rights of navigation on the waters of the state.
5. Boating, port, and water access facilities shall be sited and designed to ensure no net loss of shoreline ecological functions.
6. Boating, port, and water access facilities shall meet WDNR requirements and other state guidance if located in or over state-owned aquatic lands.
7. Boating, port, and water access facilities shall be located where:

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a. There is adequate water mixing and flushing;

b. Such facilities will not create a flood hazard;

c. Water depths are adequate to minimize spoil disposal, filling, and beach enhancement; and

d. Water depths are adequate to prevent the facility from grounding out at the lowest low water or the facility includes stoppers to prevent grounding.

8. Boating, port, and water access facilities shall not be located :

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

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

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

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

B. General Design Standards for Boating, Port, and Water Access Facilities

1. Boating, port, and water access facilities shall be designed and operated to avoid or minimize impacts. Unavoidable impacts must be mitigated consistent with the mitigation sequence in SMP Section 4.03 and critical areas in SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

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

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

4. Project applicants shall comply with all local and state policies and regulations, including all applicable health, safety, and welfare requirements associated with the

primary or accessory use. These standards include but are not limited to WDNR and WDFW standards and regulations including Hydraulic Code Rules (Chapter 220-660 WAC).

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

C. Supplementary Standards for Boat Ramps and Launches

1. New boat ramps and launches shall follow BMPs and the standards in WAC 220-660-150 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. Boat ramps and launches may be permitted for public boating and water access and recreational uses subject to SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.
3. Boat ramps and launches shall be sited to minimize impacts to aquatic and upland wildlife habitats, native emergent vegetation, water quality, and navigation. All facilities shall be sited and designed per required mitigation sequencing.
4. Boat ramps and launches shall be located where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.

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5. The design of boat ramps and launches shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
6. The applicant shall demonstrate that the proposed length of a boat ramp or launch is the minimum necessary to launch the intended craft safely.
7. Boat ramps and launches shall be designed and constructed using methods and technology recognized and approved by state and federal resource agencies as BMPs.

D. Supplementary Standards for Docks and Piers

1. New docks and piers shall follow BMPs and the standards in WAC 220-660-380 to avoid impacts to shoreline ecological functions, such as effects to nearshore habitat.
2. New docks and piers shall be allowed only for public access and water-dependent uses so long as they comply with the regulations contained in this section. Docks and piers shall meet the following standards:
    a. New docks and piers shall be permitted only when they are intended for commercial, industrial, port, public access, or public access use in the Westport Marina or public use outside of the marina.
    b. No more than one dock or pier is allowed for a water-dependent use.
3. The maximum dimensions of a dock or pier shall be no greater than necessary and shall generally meet the following development standards. An explanation of why the dock or pier length was chosen must be submitted with the application.
    a. Docks and piers for commercial, industrial, port, public access, or public access use in the Westport Marina may be up to eight feet in width and shall not exceed 200 feet beyond the OHWM.
    b. Proposed docks and piers that do not comply with the dimensional standards above may only be approved if they obtain a shoreline variance. Pursuant to WAC 173-27-040(2)(b), any existing legal nonconforming dock or pier may be repaired or restored to its original size, dimension, and location without the need for a variance, if it is below the replacement thresholds found in SMP Section 5.07.02(E)(1). Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.

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E. Supplementary Standards for Port Development

1. Water-dependent port uses shall have shoreline location priority over all other uses in the High Intensity shoreline environment designation.
2. The location, design, and construction of port development shall result no net loss of ecological functions or have significant negative impacts to shoreline use, resources, navigation, recreation, and public access.
3. Public access should be incorporated where feasible. Public access shall be required where feasible for new port development on publicly owned land and does not interfere with operations, violate federal security regulations, or endanger public health and safety.
4. Maintenance, expansion, or reconfiguration of the existing docks, floats, and boat launch facility within the boundaries of the existing Marina, or the existing parking and fishing equipment storage yards in the adjacent uplands, while subject to the requirements of the use and development standards included in the SMP, are not considered an expansion of the existing Westport Marina that would require bringing the rest of the Marina into compliance.
5. Port development shall comply with all local, state, and federal requirements regarding air and water quality.
6. BMPs shall be strictly adhered to for facilities, vessels, and products used in association with port development.
7. All port developments shall include the capability to contain and clean up spills, discharges, or pollutants, and shall be responsible for any pollution, which they cause.
8. Procedures for handling toxic materials in shoreline areas shall prevent their entering the air or water.
9. Accessory development, which does not require a shoreline location, shall be located upland of the water-dependent portions of the development and set back from the OHWM as set forth in the shoreline environment designation.
10. All new or expanded upland port development shall be set back and buffered from adjacent shoreline properties, which are used for non-industrial or port development purposes. Buffers shall be of adequate width, height, and plant and soil composition to protect shorelines and such other properties from visual or noise intrusion, minimize erosion, and protect water quality. New or expanded port development shall be set back and buffered from the shoreline except those water-

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dependent portions of the development, which require direct access to the water, or shoreline and any adverse impacts are minimized.

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

F. Existing Uses and Structures

1. Replacement

    a. If the replacement of 50% or more of the boating, port, and water access facility occurs as part of a project, it is considered a new facility and must be designed consistent with any applicable standards for new boating, port, and water access facilities.

    b. Outside of the Westport Marina, if new buffer or critical area standards have been adopted beyond those in place when the original structure was permitted then the facility would become an existing non-conforming use and only those portions of the facility that extends beyond the boundary of the original facility would require mitigation under SMP Section 5.07.02(G).

2. Modification or Enlargement

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

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

3. Repair

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

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

G. Mitigation

1. Outside the footprint of the existing Westport Marina, new or expanded boating, port, and water access facilities should follow the mitigation sequence in SMP Section 4.03.

2. For new development of boat ramps and launches for nonmotorized craft outside the footprint of the existing Marina, appropriate compensatory mitigation may include items including but not limited to, one or more of the following measures:
    a. Removal of any legal existing overwater or in-water structures that are not the subject of the application or otherwise required to be removed;
    b. Removal or ecological improvement of hardened shoreline, including existing launch ramps or structural shoreline stabilization;
    c. Removal of man-made debris waterward of the OHWM, such as car bodies, oil drums, concrete or asphalt debris, remnant docks, or other material detrimental to ecological functions and ecosystem-wide processes; or
    d. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.

H. Application Requirements

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

1. A description of the proposed boating, port, and water access facility, including its size, location, design, and any shoreline stabilization or other modification measures;
2. The ownership of the property and aquatic lands;
3. Habitat surveys and critical area studies consistent with SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.
4. Assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
5. A mitigation plan for unavoidable adverse impacts to ecological functions or processes shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).
6. A slope bathymetry map when deemed beneficial by the Shoreline Administrator.
7. An assessment of existing water-dependent uses in the vicinity and documentation of potential impacts to those uses and mitigating measures.

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5.08 COMMERCIAL DEVELOPMENT

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

5.08.01 POLICIES

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

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

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

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

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

F. Recognize the benefit to users of the shorelines of the existing Westport Marina in the Westhaven Cove related commercial development, which is located in the Mixed Use Tourist Commercial (MUTC) and Marine Industrial (MI) zoning districts adjacent to the existing Marina and allow similar development and uses to continue.

5.08.02 REGULATIONS

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

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

   1. The commercial use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;

2. Navigability is severely limited at that location and the commercial use provides a significant public benefit such as public access or ecological restoration; or
3. The commercial use is physically separated from the shoreline by another property or public right of way.

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

D. Marina related commercial development and uses that support the existing Westport Marina shall be considered water-oriented water-related or water-enjoyment uses.

5.09 FOREST PRACTICES

Forest practices are prohibited in the city's shoreline jurisdiction.

5.10 INDUSTRIAL DEVELOPMENT

In applying the policies and regulations of this section, industrial development means the production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of goods and materials is considered industrial development.

Industrial developments are often associated with other uses and modifications that are identified separately in the SMP, such as parking. Every use and type of shoreline modification should be identified and reviewed for compliance with all applicable sections.

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

5.10.01 POLICIES

A. Ensure the designation of sufficient land to accommodate water-oriented industrial development.

B. Encourage new industrial development to locate where environmental clean-up and restoration can be incorporated.

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

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

E. Encourage cooperative use of parking and storage facilities in waterfront industrial areas.

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

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

5.10.02 REGULATIONS

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

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

C. Non-water-oriented uses are prohibited in shoreline jurisdiction unless they meet one of the following criteria:

   1. It is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access or ecological restoration;

   2. Navigability is severely limited on the site and the industrial use provides a significant public benefit of providing public access or ecological restoration; or

   3. The site is physically separated from the shoreline by another property or public right of way.

D. Industrial uses that support the Westport Marina in Westhaven Cove shall be considered water-oriented water-related or water-enjoyment uses.

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

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

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

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

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

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

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

5.11 MINING

Mining is the removal of sand, soil, gravel, minerals, and other materials for commercial and other uses. Mining in the shoreline can alter the natural character, resources, and ecology of shorelines. Mining in the city has been traditionally limited to sand removal at ocean beach approaches, and the USACE South Jetty Maintenance Stockpile located in Half Moon Bay.

5.11.01 POLICIES

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

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

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

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

5.11.02 REGULATIONS

A. New mining waterward of the OHWM of a shoreline waterbody shall not be permitted unless:

1. Removal of specified quantities of sand and gravel or other materials is proposed at precise locations, which will not adversely affect the natural processes of gravel transportation in the waterbody as a whole;
2. The mining and associated permitted uses will not have significant adverse impacts on habitat for priority species or cause a net loss of shoreline ecological functions;
3. Such uses will not increase the flooding of flood hazard areas or threaten public or private properties; and
4. A shoreline conditional use permit is obtained.

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

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

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

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

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

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

5.12 PARKING

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

5.12.01 POLICIES

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

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

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

5.12.02 REGULATIONS

A. Parking facilities are allowed only as an accessory to an authorized shoreline use. Stand-alone parking facilities not supporting an authorized primary use, such as the Westport Marina, are prohibited in shoreline jurisdiction.

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

1. When parking facilities are within or beneath the structure and adequately screened.
2. Where the existing configuration of a commercial or industrial building has parking situated between the structure and the shoreline. No expansion of the parking area towards the water shall be allowed.
3. When parking to address specific Americans with Disabilities Act of 1990 requirements is required and cannot be placed in another location.

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

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

5.13 RECREATIONAL DEVELOPMENT

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

5.13.01 POLICIES

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

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

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

D. Promote the ongoing maintenance of shoreline public access.

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

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

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

H. Encourage preservation of scenic views and vistas.

5.13.02 REGULATIONS

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

B. Recreational uses and facilities proposed within the shoreline jurisdiction shall be primarily designed to promote access, enjoyment, and use of the water and shorelines of the state. Non-water-related recreational uses shall predominantly be located outside of the shoreline jurisdiction.

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

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

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

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

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

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

   2. Incorporate native species.

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

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

5.14 RESIDENTIAL DEVELOPMENT

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

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

5.14.01 POLICIES

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

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

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

D. Prohibit new overwater residential development.

E. Encourage public access to the shoreline as part of new residential development, and require public access in accordance with SMP Section 4.08 for new multifamily residential development and subdivisions that include more than four parcels.

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

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

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5.14.02 REGULATIONS

A. Residential uses and development may be allowed in conformance with the city's development requirements and the provisions of the SMP.

B. Residential subdivisions shall:

   1. Comply with all applicable subdivision, critical areas, and zoning regulations including Title 14 WMC.

   2. Include facilities for water supply, wastewater, stormwater, solid waste, access, utilities, and other support facilities in conformance with city standards.

   3. Be designed, configured, and developed to:

      a. Assure that no net loss of ecological functions will result from the initial division of the land, at full build-out of all the lots, and throughout all phases of development.

      b. Avoid critical areas and their buffers in accordance with SMP Section 4.03.

      c. Prevent the need for new hard or soft shoreline stabilization or flood hazard reduction measures in accordance with SMP Section 6.07 and SMP Section 4.06.

      d. Minimize physical impacts to vegetation and other natural features within the shoreline.

      e. Assure that lots in proposed subdivisions are sufficiently sized and oriented to allow future residential development, without these residential uses requiring a shoreline variance. Lot configurations shall plan for building sites outside of required shoreline and critical area buffers.

   4. Clustering may be permitted, as allowed by the WMC, to achieve these provisions.

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

   1. Comply with all applicable zoning regulations.

   2. Meet all applicable critical areas, vegetation conservation, and water quality standards of SMP Chapter 4: General Policies & Regulations.

   3. Be designed, sited, and constructed to:

      a. Assure no net loss of shoreline ecological functions.

      b. Prevent the need for new structural flood hazard management measures to the greatest extent feasible.

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

D. New multifamily developments and subdivisions over four lots in size shall provide public access under SMP Section 4.08.

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

F. Primary residential uses are prohibited over the water.

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

H. Residential appurtenant and accessory structures or uses are prohibited within shoreline buffers unless specifically authorized in SMP Section 4.04 or SMP Appendix 2: Critical Areas Regulations.

5.15 SIGNS

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

5.15.01 POLICIES

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

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

5.15.02 REGULATIONS

A. Signs shall comply with the applicable city regulations.

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

C. Signs may be allowed if they:

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

2. Conform with Washington State Department of Transportation (WSDOT) standards for signs on public highways; and
3. Meet one of the following two conditions:
    a. Are official in nature, such as traffic control, wayfinding, monument, historic, or cultural site markers, etc., and are located within the public right-of-way; or
    b. Are located on the public or private property that contains the use advertised.

5.16 TRANSPORTATION FACILITIES

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

5.16.01 POLICIES

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

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

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

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

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

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

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

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5.16.02 APPLICABILITY

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

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

5.16.03 REGULATIONS

A. Transportation facilities shall only be placed within shoreline jurisdiction, when no other reasonable option for the location of the facility exists. If no reasonable alternative exists to placing a new transportation facility or expanding an existing facility in shoreline jurisdiction, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

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

   1. Be set back from the OHWM as far as feasible and locate any new water crossings as near to perpendicular with the waterbody as feasible, unless an alternate path would minimize the disturbance of native vegetation or result in the avoidance of critical areas;
   2. Be designed with the minimum pavement area required;
   3. Minimize adverse effects on unique or fragile shoreline features;
   4. Implement the mitigation sequence in SMP Section 4.03 and ensure no net loss of shoreline ecological functions;
   5. Avoid adverse impacts on existing or planned water-dependent uses;
   6. Allow joint use of the right-of-way with non-motorized uses and existing or planned primary utility facilities to consolidate the crossings of waterbodies and minimize adverse impacts to shoreline jurisdiction, where feasible; and
   7. Provide and maintain visual access to scenic vistas on public roads, where feasible. Visual access may include, but is not limited to turnouts, rest areas, and picnic areas.

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

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

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

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

G. Improvements or expansion of the existing airport consistent with an approved airport layout plan are allowed within the High Intensity shoreline environment designation and adjacent Aquatic shoreline environment designations subject to approval of permits as indicated in SMP Table 5-1: Permitted, Conditional, and Prohibited Uses.

5.17 UTILITIES

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

5.17.01 POLICIES

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

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

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

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

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

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

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

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

5.17.02 APPLICABILITY

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

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

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

5.17.03 REGULATIONS

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

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

C. If a utility is required to be sited in shoreline jurisdiction, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

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

   1. Be designed and constructed to meet all adopted engineering standards.

   2. Provide for compatible, multiple use sites, and rights-of-way whenever feasible. Compatible uses include shoreline access points, trails, and other forms of recreation and transportation, provided these uses do not interfere with utility operation, endanger public health and safety, or cause a significant and disproportionate liability for the owner.

   3. Minimize processes affecting the rate of shoreline erosion. Where this may occur, the Shoreline Administrator may require a monitoring plan and adaptive management measures prepared by a qualified professional as appropriate.

   4. Limit clearing to the minimum necessary for installation or maintenance. Impacts associated with removal of vegetation or clearing shall be mitigated on site.

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

   1. Be undergrounded, except where technical, environmental, or geological conditions make undergrounding infeasible.

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2. Be sited within the footprint of an existing right-of-way or utility easement, wherever feasible in locations where right-of-ways and easements exist.
3. Avoid paralleling the shoreline except where located in an existing road or easement footprint.

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

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

G. After the installation of a utility system or the completion of a maintenance project, the disturbed area shall be regraded to match the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover, including meeting the standards of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

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6 SHORELINE MODIFICATION POLICIES & REGULATIONS

6.01 INTRODUCTION

This chapter contains specific shoreline modifications policies and regulations that apply to those activities that modify the physical form of the shoreline in any shoreline environment designation. By definition, shoreline modifications activities are undertaken in support of or in preparation for a permitted shoreline use. A single permitted use may require several different shoreline modifications.

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

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

6.01.01 SHORELINE MODIFICATION TABLE

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

Table 6-1: Shoreline Modifications

Shoreline Modifications (1)(2)	**High Intensity**	**Shoreline Residential**	**Urban Conservancy**	**Marina Aquatic**	**Aquatic**
Key: P = Permitted Use, C = Conditional Use, N/A = Not Applicable					
Clearing and Grading	P	P	P	N/A	N/A

Shoreline Modifications (1)(2)	High Intensity	Shoreline Residential	Urban Conservancy	Marina Aquatic	Aquatic
Fill					
Fill Landward of OHWM	P	P	P	N/A	N/A
Fill Waterward of OHWM	N/A	N/A	N/A	C	C
Dredging and Dredge Material Disposal	C	C	C	C (3)	C (3)
In-Water Structure Shoreline Modifications(4)	N/A	N/A	N/A	C	C
Restoration (5)	P	P	P	P	P
Shoreline Stabilization					
Hard Shoreline Stabilization Measures	P	P	C	C	C
Soft Shoreline Stabilization Measures	P	P	P	C	C

Notes:

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

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

(3) Maintenance dredging of established navigation channels and basins is exempt in accordance with and as provided for in SMP Section 6.04.02(A)(2)(f).

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

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

6.02 GENERAL SHORELINE MODIFICATION PROVISIONS

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

6.02.01 POLICIES

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

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

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

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

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

6.02.02 REGULATIONS

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

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

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

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

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

F. Shoreline modifications standards shall not apply retroactively to existing, legally established shoreline modifications. Existing structures may be maintained, repaired, and operated within shoreline jurisdiction and within the shoreline buffers established in the SMP. Repair and replacement provisions in later sections of this chapter may apply to specific modifications.

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

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H. All shoreline modifications are subject to the mitigation sequence in SMP Section 4.03, with appropriate mitigation required for unavoidable impacts to ecological functions. If critical areas in shoreline jurisdiction are impacted, the project is also subject to relevant requirements of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

6.03 CLEARING, GRADING, AND FILL

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

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

6.03.01 POLICIES

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

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

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

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

E. Permit clearing, grading, and fill associated with dike, levee, or jetty maintenance as necessary to provide protection from flood hazards when consistent with the flood hazard management provisions in SMP Section 4.06.

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

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

6.03.02 REGULATIONS

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

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

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

D. When clearing, grading, or fill causes adverse impacts to ecological functions, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

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

   1. Due consideration has been given to the site specific conditions;
   2. All impacts have been mitigated;
   3. All required state and federal permits have been obtained; and
   4. The shoreline use or development is one of the following:
      a. A water-dependent use or public access to the shoreline;
      b. The clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan;
      c. The disposal of dredged material considered suitable under, and conducted in accordance with, the WDNR's Dredged Material Management Program and the USACE Dredged Material Management Office. See also SMP Section 6.04;
      d. The expansion or alteration of transportation facilities of statewide significance that are currently located in the shoreline jurisdiction, where alternatives to fill are infeasible;
      e. Expansion or alteration of the existing airport consistent with an approved airport plan, when demonstrated that there are no feasible alternatives to fill, and the impacts are minimized to greatest extent feasible and are adequately mitigated.
      f. Ecological enhancement, restoration or mitigation, when consistent with an approved plan; or
      g. The protection of historic or cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such fill must be coordinated with any affected tribes and comply with applicable provisions of SMP Section 4.02.

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

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

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

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

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

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

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

L. To prevent a loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway per SMP Section 4.06.

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

6.04 DREDGING AND DREDGE MATERIAL DISPOSAL

This section is intended to cover dredging and dredge material disposal. It is not intended to cover mining or other excavations waterward of the OHWM that are incidental to construction of an authorized use or modification such as bulkhead replacements, boat launch ramp installation, or pile placement. These in-water substrate modifications should be conducted in accordance with all applicable regulations for the proposed use found in the SMP.

6.04.01 POLICIES

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

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

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

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

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

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

G. Prefer the disposal of dredged material on land outside of the shoreline jurisdiction to open water disposal. Where in water disposal is the established method, such as for channel maintenance dredging, projects should consider the beneficial use of materials where possible. The city should work with state and federal regulatory agencies to identify and implement beneficial use activities and projects utilizing dredge material disposal.

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

6.04.02 REGULATIONS

A. Dredging

1. Dredging and dredge disposal proposals shall utilize the mitigation sequence in SMP Section 4.03. Where adverse impacts are unavoidable, a mitigation plan shall be prepared by a qualified professional consistent with the provisions of SMP Appendix 2: Section 1.07(E).

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

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

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

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

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

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

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

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

f. Maintenance dredging of established navigation channels and basins, including the existing Westport Marina basin in the Westhaven Cove, so long as the dredging is restricted to the previously dredged or authorized location, depth, and width. Such dredging shall be considered an exempt activity so long as it meets the requirements of SMP Section 7.04.04.

g. Flood hazard reduction.

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

4. Dredging shall be prohibited for the primary purpose of obtaining fill material, except when permitted under SMP Section 4.06 or when necessary for the restoration of shoreline ecological functions. In the latter case:

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

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

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

B. Dredge Material Disposal

1. Dredge material disposal within shoreline jurisdiction may be permitted as long as:

a. Shoreline ecological functions and processes will be preserved, restored, or enhanced. Factors to consider include surface and groundwater protection, erosion, sedimentation, and the impacts of floodwaters or run-off; and

b. The disposal will not negatively affect public or private property.

2. Dredge material disposal in open waters may be approved when authorized by the Dredge Material Management Office or other applicable state and federal agencies, which may include the USACE in accordance with Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and WDFW HPA; and when one of the following conditions apply:

   a. Open water disposal at an approved USACE or WDNR disposal site is the common method for disposal of maintenance dredge materials from navigation channels and basins; or

   b. If applicable, the use of dredge material to benefit shoreline resources shall be addressed through the implementation of a regional interagency dredge material management plan or watershed plan.

3. All dredge material disposal on state-owned aquatic lands must comply with WDNR and WDFW standards and regulations.

4. For structure and dredging projects related to the USACE navigation channel and Port of Grays Harbor Westport Marina features, upland disposal of material in the USACE designated stockpile located near Half Moon Bay is allowed if approved by the appropriate regulatory agencies.

C. Submittal Requirements

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

6.05 IN-WATER STRUCTURE SHORELINE MODIFICATIONS

This section applies to in-water structures, such as breakwaters, jetties, dams, groins, and weirs that are built by humans and located waterward of the OHWM. This section does not apply to public and private docks, launch ramps, marinas, piers, and port development that facilitate

water access, the launching or mooring of vessels, or marine terminals and moorage structures, which are regulated in SMP Section 5.07.

6.05.01 POLICIES

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

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

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

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

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

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

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

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

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

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

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6.05.02 REGULATIONS

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

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

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

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

E. The mitigation sequence in SMP Section 4.03 shall be required, with mitigation required for all unavoidable impacts to ecological functions. If critical areas in the shoreline jurisdiction are impacted, the project is subject to SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

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

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

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

I. Waste material resulting from in-water structure installation and removal shall be deposited in an approved upland disposal site outside of the shoreline jurisdiction unless the applicant can demonstrate in-water disposal is the preferred method for the shoreline location and in-water disposal has been approved in accordance with SMP Section 6.04.

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

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

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L. In-water structures designed by public entities shall include public access under SMP Section 4.08 whenever feasible. At a minimum, in-water structures should not decrease public access or the use potential of shorelines unless it is demonstrated the only feasible design for the in-water structure requires decreasing public access to prevent the loss of shoreline or habitat.

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

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

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

6.06 RESTORATION

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

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

6.06.01 POLICIES

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

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

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

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

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

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

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

6.06.02 REGULATIONS

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

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

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

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

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

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

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

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

I. In accordance with RCW 90.58.580, a shoreline substantial development permit may not be required for development within the city on land that is brought under shoreline jurisdiction due to a shoreline restoration project that causes or would cause a landward shift in the OHWM. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of Ecology.

6.07 SHORELINE STABILIZATION

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

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

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6.07.01 POLICIES

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

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

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

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

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

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

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

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

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

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

J. Design land subdivisions to assure that future development on created lots are unlikely to require shoreline stabilization structures for reasonable development to occur.

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

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

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

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

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

6.07.02 REGULATIONS

A. Design and Location of New Development

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

B. Repair and Maintenance of Existing Shoreline Stabilization Structures

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

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

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

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

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

   a. Repair and maintenance of existing shoreline stabilization structures must be consistent with the requirements of SMP Section 4.04 and SMP Appendix 2: Critical Areas Regulations.

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

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

   a. Replacement of greater than 50 percent or 35 feet of linear length of an existing shoreline stabilization structure, whichever is smaller, as measured on a cumulative basis since the structure was established, except as provided below in SMP Section 6.07.02(B)(3)(b), is not considered repair or maintenance, and is considered a new structure.

   b. Replacement of the bank line stabilization structures within the footprint of the existing Westport Marina in the Westhaven Cove, which do not involve expansion, or a material change in design or extent of the Marina that would create new impacts when compared to the existing design or extent of the Marina, shall be considered repair and maintenance measures.

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C. Replacement or Enlargement of Existing Shoreline Stabilization Structures

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

D. Standards to Demonstrate Need for Shoreline Stabilization Structures

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

1. To protect an existing primary structure, including a residence, if there is conclusive evidence documented by a geotechnical analysis that the primary structure is in danger from shoreline erosion caused by natural processes. Normal sloughing, erosion of steep bluffs, or shoreline erosion in itself, without a geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address problems away from the OHWM before considering new shoreline stabilization structures.
2. In support of water-dependent development when all of the conditions below apply:
   a. Site 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 sufficient to address erosion causes or impacts adequately; and
   c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical analysis.
3. In support of new non-water-dependent development, including residences, when all of the conditions from water-dependent development from SMP Section 6.07.02(D)(2) apply and non-structural measures, such as placing the proposed development farther from the shoreline are not feasible or sufficient to address the erosion impacts adequately.
4. To protect historic or cultural resources, or as part of restoration or hazardous substance remediation projects pursuant to Chapter 70.105D RCW, when non-structural measures, such as planting vegetation or installing on-site drainage

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improvements, are not feasible or sufficient to adequately address the causes of erosion or avoid continued degradation, disturbance, or erosion of a site.

5. A geotechnical analysis is not required when an applicant proposes to replace an existing shoreline stabilization structure with a softer measure, so long as the applicant demonstrates through site photographs and a written narrative the need to protect the primary uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.
6. Replacement of hard shoreline stabilization structures shall not encroach waterward of the OHWM or the existing shoreline stabilization measure unless the primary residence was constructed prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement for the shoreline stabilization structure shall be attached to and waterward of the existing structure. All other replacement of hard stabilization structures shall be located at or landward of the existing shoreline stabilization measure.

E. General Design Standards

1. Shoreline stabilization measures shall not result in a net loss of shoreline ecological function.
2. When a hard or soft shoreline stabilization structure is demonstrated to be necessary, the following design standards shall be incorporated as part of the design:
   a. Impacts to sediment transport shall be avoided or minimized.
   b. Shoreline stabilization structures shall be the minimum size necessary by height, depth, and mass, and not extend waterward more than the minimum amount needed to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.
   c. Soft structural shoreline stabilization measures shall be used to the maximum extent feasible for new, enlarged, or replacement shoreline stabilization structures, unless demonstrated insufficient to protect primary structures in a geotechnical analysis.
   d. When feasible, hard structural shoreline stabilization measures shall be limited to the portion of the site necessary to protect primary structures or connect to existing shoreline stabilization measures on adjacent properties.

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e. All clearing, grading, and fill associated with shoreline stabilization structures shall be conducted landward of the OHWM to the maximum extent feasible unless it is infeasible due to safety or environmental concerns.

f. Fill behind shoreline stabilization structures is limited to one cubic yard per running foot of stabilization. Filling in excess of this amount shall be considered a regulated activity subject to the regulations in SMP Section 6.03 and require a shoreline substantial development permit or shoreline conditional use permit.

g. All approved new, enlarged, or replacement shoreline stabilization structures shall be designed using BMPs, including WDFW's Integrated Streambank Protection Guidelines, and minimize and mitigate unavoidable adverse impacts to ecological functions, consistent with SMP Section 4.03.

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

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

j. When a new shoreline stabilization structure is proposed on a site where adjacent properties have shoreline stabilization structures, the new structure may tie in with the existing structures on the adjoining properties. The new structure shall minimize, to the maximum extent feasible, the portion of the new structure that is waterward of the OHWM to connect to the existing structures.

k. Shoreline stabilization structures shall be designed to ensure that the project remains stable during storm events, flood events, and wave conditions.

l. Shoreline stabilization shall be designed not to significantly interfere with normal surface or subsurface drainage into the adjacent waterbody.

m. All shoreline stabilization shall be designed to avoid hazards to navigation.

n. Shoreline stabilization shall be designed to ensure that it does not restrict appropriate public access to the shoreline. Where a shoreline stabilization structure is required at a public access site, provisions for safe access to the water shall be incorporated into the design.

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o. Stairs or other water access measures may be incorporated into shoreline stabilization design, but they shall not extend waterward of the OHWM.

F. Submittal Requirements

In addition to submitting an application for the appropriate shoreline permit, the applicant shall submit a geotechnical analysis prepared by an engineer licensed by the state as part of a request to construct a new, enlarged, or replacement shoreline stabilization structure. This analysis must include:

1. An assessment of the need for the shoreline stabilization structure based on site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocity, and the location of the nearest shoreline stabilization structure.
2. The estimated time frames and rates of erosion to convey the urgency associated with the specific situation.
3. An explanation of why SMP Sections 6.07.02(D)(2)(a) and (b) are not sufficient to address erosion issues.
4. Detailed construction plans for all shoreline stabilization structures, including, but not limited to, the following:
   a. Plan and cross-section views of the existing and proposed shoreline configuration, showing OHWM and accurate existing and proposed topography;
   b. A detailed construction sequence and specifications for all materials; and
   c. A mitigation and monitoring plan to ensure no net loss of shoreline functions.

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7 SHORELINE ADMINISTRATION

7.01 INTRODUCTION

SMP Chapter 7: Shoreline Administration describes the administrative procedures and enforcement of a permit system that implements the SMP, together with amendments or additions thereto. Issuance of a shoreline permit or letter of exemption from the Shoreline Administrator does not exclude the requirements for other city, state, and federal permits, procedures, and regulations.

7.02 PERMIT PROCESSING - GENERAL

7.02.01 SHORELINE ADMINISTRATOR

A. The Shoreline Administrator shall be responsible for the administration of the permit system in accordance with the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the city. This shall include, but not be limited to, determinations of whether a development is exempt or requires a shoreline substantial development permit, conditional use permit, or variance.

B. The Shoreline Administrator shall ensure that administrative provisions are in place so that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.

C. Administrative Interpretation.

   1. The Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.

   2. As part of this process, the Shoreline Administrator shall consult with Ecology to insure that formal written interpretations are consistent with the purpose and intent of the SMA and Chapter 173-26 WAC.

   3. Formal interpretations shall be kept on file by the city and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.

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D. The Shoreline Administrator shall have the authority to enter into formal agreements with other jurisdictions that have an Ecology-approved SMP to address the review of projects where there is overlapping or shared shoreline permitting authority.

E. The Shoreline Administrator shall review every application that is submitted and determine if the application is complete based upon the information required by this section.

7.02.02 PROVISIONS APPLICABLE TO ALL SHORELINE PERMITS

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to local development codes and standards, Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit is required.

B. No authorization to undertake a use or development on shorelines of the state shall be granted by the city, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMP.

C. RCW 36.70A.480 governs the relationship between the SMP and the city's development regulations to protect critical areas that are adopted under Chapter 36.70A RCW.

D. Applications for shoreline substantial development permits, conditional use permits, and variances shall be processed in accordance with the SMP.

E. The applicant shall meet all of the review criteria for all development found in WAC 173-27-140.

F. A shoreline substantial development shall not be undertaken within the city unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.

G. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP.

H. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

7.02.03 APPLICATION REQUIREMENTS

Applications for shoreline permits or letters of exemptions shall be made on forms provided by the Shoreline Administrator. An applicant for a shoreline substantial development permit, who wishes to request a shoreline conditional use permit or variance, shall submit the shoreline

conditional use permit or variance application(s) and the shoreline substantial development permit application simultaneously.

Applications shall be substantially consistent with the information required by WAC 173-27-180 and include any additional submittals deemed necessary by the Shoreline Administrator for proper review of the proposal.

7.03 APPLICATION - NOTICES

The following is applicable for the notice requirements all notices related to actions under the SMP:

A. Within 14 days from making a determination of complete application, the Shoreline Administrator shall provide public notice of the application. Notice of environmental review under SEPA (Chapter 43.21C RCW) may be combined with the application notice.

B. The public notice shall include:

   1. The date the application was made and the date the application was determined to be complete;
   2. A description of the proposed project action and a list of the project permits included in the subject application;
   3. The identification of other permits not included in the subject application, if known;
   4. The identification of existing environmental documents that evaluate the proposed project and where such documents may be reviewed;
   5. A statement of the public comment period, which shall be at least 30 days;
   6. The date, time, and place of the public hearing and a statement that a person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Hearing Examiner at the public hearing;
   7. A statement of preliminary determination, if one has been made; and
   8. Any other information determined appropriate by the city.

C. The Shoreline Administrator shall provide notice by at least one of the following noticing methods:

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1. Mailing of the notice to the latest recorded real property owners as shown by the records of the Grays Harbor County Assessor within 300 feet of the property boundary of the subject proposal;
2. Posting the notice in a conspicuous manner on the property upon which the project is to be undertaken; or
3. Publishing the notice in the legal newspaper for the city.

D. The notification system shall also provide notice to all agencies with jurisdiction in the proposal per Chapter 43.21C RCW and to all other agencies that request in writing any such notice.

E. The Shoreline Administrator shall give notice of the application no less than 30 days prior to permit issuance.

F. The public notice shall also state that a person interested in the Hearing Examiner action on an application for a permit may notify the Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the Shoreline Administrator or the submission of views to the Hearing Examiner shall entitle said persons to a copy of the action taken on the application.

7.04 SHORELINE PERMITS AND APPROVALS

7.04.01 SHORELINE SUBSTANTIAL DEVELOPMENT PERMITS

The following is applicable for all shoreline substantial development permits:

A. A shoreline substantial development permit shall be granted by the Hearing Examiner only when the development proposed is consistent with the following:

1. Goals, policies and use regulations of the SMP;
2. The cities' Comprehensive Plan, development codes, and associated regulations; and
3. The policies and regulations of the SMA as well as the associated guidelines (Chapter 90.58 RCW; Chapters 173-26 and 173-27 WAC).

B. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-140 and WAC 173-27-150. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

7.04.02 SHORELINE CONDITIONAL USE PERMITS

A. The purpose of a conditional use is to provide a system within the SMP, which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020.

B. The criteria in WAC 173-27-140 and WAC 173-27-160 shall constitute the minimum criteria for review and approval of a shoreline conditional use permit.

C. Uses that are not classified or set forth in the SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

D. Uses that are specifically prohibited may not be authorized.

E. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

F. The decision of the Hearing Examiner shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

7.04.03 SHORELINE VARIANCES

A. The purpose of a variance is strictly limited to granting relieve from specific bulk, dimensional, or performance standards set forth in the SMP where the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

B. The criteria in WAC 173-27-140 and WAC 173-027-170 shall constitute the minimum criteria for review and approval of a shoreline variance.

C. The Shoreline Administrator shall forward a staff report with recommended findings, conclusions, and conditions to the Hearing Examiner, who may attach conditions to the approval of the variance as necessary to assure consistency of the proposal with the above criteria.

D. The decision of the Hearing Examiner shall be the final decision of the city. Ecology shall be the final authority authorizing a shoreline variance consistent with WAC 173-27-200.

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7.04.04 SHORELINE LETTERS OF EXEMPTION

The following is applicable for all shoreline letters of exemption:

A. A letter of exemption shall be required for a development that is exempt from the requirements for a shoreline substantial development permit.

B. To qualify for a letter of exemption, the proposed use, activity, or development must meet all of the requirements for an exemption. Exemptions and the standards for interpreting exemptions are found in WAC 173-27-040.

C. The Shoreline Administrator may issue a letter of exemption for emergency construction necessary to protect property from damage by the elements in accordance with WAC 173-27-040. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and the SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

D. Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

E. For exempt development proposals subject to review, approval, and permitting by a state or federal agency in shoreline jurisdiction or identified in this SMP as requiring a shoreline letter of exemption, the Shoreline Administrator shall prepare a letter of exemption in accordance with WAC 173-27-050(1). The letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040(2) that are being applied to the development and the letter shall provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP. The letter of exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

F. Ecology is designated as the coordinating agency for the state with regard to permits issued by the USACE. The following is intended to facilitate Ecology's coordination of actions, with regard to exempt development, with federal permit review.

   1. The Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one or more of the following federal permit requirements:

      a. A USACE Section 10 permit under the Rivers and Harbors Act of 1899. The provisions of Section 10 of the Rivers and Harbors Act generally apply to a

project occurring on or over navigable waters. Specific applicability information should be obtained from the USACE; or

b. A Section 404 permit under the Federal Water Pollution Control Act of 1972. The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to a project that may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the USACE.

2. Ecology will be notified prior to issuance of the letter of exemption.

7.05 PUBLIC HEARING AND DECISION

7.05.01 BURDEN OF PROOF FOR DEVELOPMENT CONFORMANCE

A. The burden of proving that the proposed development is consistent with the criteria set forth in the SMP, as well as the requirements of the SMA shall be on the applicant.

7.05.02 PUBLIC HEARING PROCESS

A. The Hearing Examiner shall hold at least one open record public hearing on each application for a shoreline substantial development permit, conditional use permit or variance in the shoreline jurisdiction. . If, for any reason, testimony on a matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Hearing Examiner may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

B. Within 10 working days of the conclusion of the hearing, unless a longer period is mutually agreed to by the applicant and the Hearing Examiner, the Hearing Examiner shall render a written decision. When the Hearing Examiner renders the final decision, the Hearing Examiner shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and city regulations.

7.05.03 NOTICE OF DECISION

A. The Shoreline Administrator shall notify the following persons in writing of the Hearing Examiner's final approval, conditional approval, or disapproval of a shoreline substantial

development permit, conditional use permit, or variance within 10 days of the Hearing Examiner's final decision:

1. The applicant;
2. Ecology, which will include all the information required in WAC 173-27-130 for filing with the department;
3. The State Attorney General, which will include a copy of the same information submitted to Ecology;
4. Any person who has provided written or oral comments on the application or the public hearing; and
5. Any person who has written the Shoreline Administrator requesting notification.

7.05.04 DEVELOPMENT START

A. Development in accordance with a shoreline substantial development permit, conditional use permit, or variance shall not be authorized until 30 days from the date of filing of the approved shoreline substantial development permit, conditional use permit, or variance with Ecology and Attorney General, or until all review proceedings initiated within 30 days of the date of such filing have been terminated.

B. The date of filing of a substantial development permit is the date of receipt by Ecology of the city's decision.

C. Shoreline conditional use permits and variances are subject to Ecology review and approval before the 30-day period starts. The date of filing of a shoreline conditional use permit or variance is the date Ecology's decision is transmitted to the city.

D. The date of filing when a shoreline substantial development permit decision is simultaneously transmitted with local approval of either a shoreline conditional use permit or variance, or both is the same as defined in 7.05.04 C above.

7.05.05 APPEALS OF DECISIONS

A. Any person aggrieved, by the granting or denying of a shoreline substantial development permit, conditional use permit, or variance, or by the rescinding of a permit in accordance with the provisions of the SMP, may seek review from the State Shorelines Hearings Board (SHB). A request for review may be done by filing a petition for review with the board within 21 days of the date of filing of the final decision, as defined by RCW 90.58.140(6) and by concurrently filing copies of such request with the

City Clerk – Treasurer, Ecology and the Attorney General's office. SHB regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

B. An appeal of a letter of exemption would first be heard by the city's Hearing Examiner and then the appeal would follow the Land Use Petition Act (LUPA) judicial review of land use decisions process found in Chapter 36.70C RCW.

C. Aside from permit decisions in SMP Section 7.05.05(A), appeals of administrative and enforcement decisions made pursuant to this code shall be decided by the Land Use Hearing Examiner pursuant to Chapter 2.26 WMC. Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who has requested notice or who the administrator believes may be affected by or interested in the appeal. Notice shall be mailed no later than 10 days before the hearing.

7.06 TIME REQUIREMENTS AND REVISIONS

7.06.01 TIME REQUIREMENTS FOR SHORELINE PERMITS

A. The time requirements of WAC 173-27-090 shall apply to all shoreline substantial development permits, conditional use permits or variances authorized in accordance with this SMP.

7.06.02 REVISIONS OF SHORELINE PERMITS

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

B. Permit revisions shall be processed in accordance with WAC 173-27-100.

C. If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision must be reviewed and approved by Ecology under the SMA.

D. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

7.07 NON-CONFORMING DEVELOPMENT

A. Non-conforming use or development means a shoreline use, development, or structure that was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but does not conform to present regulations or standards of the SMP.

B. Nonconforming use and development standards not addressed in the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the city code, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.

C. For nonconforming shoreline uses, development or structures, the following standards shall apply:

1. A nonconforming use, development, or structure may continue provided that it is not enlarged or expanded;
2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline buffers established in the SMP
3. A nonconforming use, development or structure which is moved any distance must be brought into conformance with the SMA and the SMP;
4. If a nonconforming structure is damaged to an extent not exceeding 75% of the replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within two years of the date of damage. Single-family nonconforming development may be replaced if damaged to 100%, if the restoration is completed within three years of the date of damage;
5. If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;
6. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;

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7. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was established in accordance with local and state subdivision requirements prior to the effective date of the SMA and the SMP, may be developed if permitted by other local land use regulations so long as such development conforms to all other requirements of the SMA and the SMP;
8. A use which is listed as a conditional use but which existed prior to adoption of the SMP and for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use; and
9. A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

7.08 ENFORCEMENT AND PENALTIES

7.08.01 ENFORCEMENT

A. The Shoreline Administrator or a designated representative shall enforce all provisions of the SMP. For such purposes, the Shoreline Administrator or a designated representative shall have the power of a police officer.

B. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action; the benefits that accrue to the violator; and the cost of obtaining compliance may also be considered.

C. The enforcement procedures and penalties contained in WAC 173-27-240 through WAC 173-27-310 are hereby incorporated by reference.

7.08.02 PENALTY

A person found to have willfully engaged in activities in shoreline jurisdiction in violation of the SMA or in violation of the SMP or rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of the city's code, RCW 90.58.210 and RCW 90.58.220, and WAC 173-27-270 and WAC 173-27-280.

A. Civil Penalty

1. Action: The City Attorney, when authorized by the Mayor, shall bring such injunctive, declaratory, or other actions as are necessary to insure that uses in shoreline jurisdiction are not in conflict with the provisions of the SMA and the SMP.

2. Non-Compliance: Any person who fails to conform to the terms of a permit issued under the SMP or who undertakes a development or use in shoreline jurisdiction without first obtaining any permit required under the SMP or who fails to comply with a cease and desist order issued under regulations shall also be subject to a civil penalty not to exceed $1,000 for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.

3. Aiding and Abetting: Any person who, through an act of commission or omission, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

4. Notice of Penalty: The penalty provided for in this section shall be imposed by a notice in writing, by certified mail either with return receipt requested or by personal service, to the person incurring the same from the city, Ecology, or both. The notice shall include the "content of order" specified in SMP Section 7.08.02(A)(6).

5. Remission and Joint Order: Within 30 days after the notice is received, the person incurring the penalty may apply in writing to the Hearing Examiner for remission or mitigation of the penalty. Upon receipt of the application, the Hearing Examiner may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty.

6. Any penalty imposed pursuant to this section shall be subject to review by the Hearing Examiner. In accordance with RCW 90.58.050 and RCW 90.58.210(4), any penalty jointly imposed by the city and Ecology shall be appealed to the SHB. When a penalty is imposed jointly by the city and Ecology, it may be remitted or mitigated only upon such terms as both the city and Ecology agree.

7. Regulatory Order: Content of order shall contain:

    a. A description of the specific nature, location, extent, and time of violation and the damage or potential damage including applicable SMA or SMP language; and

b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under this section may be issued with the order and it shall specify a date certain or schedule by which payment will be complete.

8. Effective Date: The cease and desist order issued under this subsection shall become effective immediately upon receipt by the person to whom the order is directed.

9. Compliance: Failure to comply with the terms of a cease and desist order can result in enforcement actions including the issuance of a civil penalty.

B. Mandatory Civil Penalties

Issuance of civil penalties is mandatory in one or more of the following instances:

1. The violator has ignored the issuance of an order or notice of violation;

2. The violation causes or contributes to significant environmental damage to shoreline jurisdiction as determined by the city; or

3. A person causes, aids, or abets in a violation within two years after issuance of a similar regulatory order, notice of violation, or penalty by the city or Ecology against said person.

C. Minimum Penalty Levels

1. The minimum penalty for all mandatory penalties is $250.

2. For all other penalties, the minimum penalty is $100.

D. General Criminal Penalty

1. In addition to incurring civil liability under SMP Section 7.08.02(A), any person found to have willfully engaged in activities in shoreline jurisdiction in violation of the provisions of the SMA or SMP shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than $100 nor more than $1,000 or by imprisonment in the Grays Harbor County jail for not more than ninety days for each separate offense, or by both such fine and imprisonment. Provided, that the fine for each separate offense for the third and all subsequent violations in any five-year period shall not be less than $500 nor more than $10,000.

E. Development and Building Permits

1. No building permit, septic tank permit, or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP. All purchasers or transferees of property shall comply with provisions of the SMA and SMP. A

purchaser or transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the SMA or SMP, including any amount reasonably spent as a result of inability to obtain development permits and spent to conform to the requirements of the SMA or SMP as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby.

2. A purchaser, transferee, or lessor may, as an alternative to making his property conform to these requirements, rescind the sale, transfer, or lease, and recover cost of investigation and reasonable attorney's fees occasioned thereby from the violator.

7.08.03 PUBLIC AND PRIVATE REDRESS

A. A person subject to the regulatory program of the SMP who violates any provision of the SMP or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney may sue for damages under SMP Section 7.08 on behalf of the city.

B. Private persons shall have the right to sue for damages under this section on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

7.08.04 DELINQUENT PERMIT PENALTY

A. A person applying for a permit after commencement of the use or activity may be required, at the discretion of the city to pay a delinquent permit penalty not to exceed three times the appropriate permit fee paid by the applicant.

B. A person who has caused, aided, or abetted a violation within two years after the issuance of a regulatory order, notice of violation, or penalty by the city or Ecology against said person may be subject to a delinquent permit penalty no to exceed ten times the appropriate permit fee paid by the applicant. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

7.09 SHORELINE MASTER PROGRAM – ADMINISTRATION

7.09.01 GENERAL ADMINISTRATION

A. The Shoreline Administrator shall record all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.

B. As part of shoreline permit review process, the Shoreline Administrator shall evaluate shoreline conditions on an ongoing basis to ensure no net loss of ecological functions, to protect and enhance visual quality, and to identify and protect significant historic or cultural resources in the shoreline. Specific issues to address in evaluations include, but are not limited to the following:

1. Water quality;
2. Conservation of aquatic vegetation and control of noxious weeds;
3. Changing visual character as a result of new development or redevelopment and individual vegetation conservation practices along shoreline and upland areas;
4. Shoreline stabilization and modifications; and
5. Significant historic or cultural resources within shoreline jurisdiction resulting from research, inventories, discoveries, or new information.

7.09.02 SHORELINE MASTER PROGRAM REVIEW

The following guidelines are to be used for review and amendments of the SMP:

A. The SMP shall be reviewed periodically, at least once every eight years as required by RCW 90.58.080(4)(b) beginning on or before June 30, 2022 and every eight years thereafter. Amendments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.

B. The Shoreline Administrator should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Related to the constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, State of Washington, *Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*, first published in February 1992.

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C. Provisions of the SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and Chapter 173-26 WAC. Standards in WAC 173-26-201 in particular articulate many of the factors to consider as part of the revisions.

D. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

7.09.03 ANNEXATION OF A SHORELINE OF THE STATE

A. Except as provided in WAC 173-26-150, in the event of annexation of a shoreline of the state, the local government assuming jurisdiction shall notify Ecology of such annexation and develop or amend the city's SMP to include the annexed area. Such SMP development or amendment shall be consistent with the policy of RCW 90.58.020 and the applicable guidelines and shall be submitted to Ecology for approval no later than one year from the effective date of annexation.

B. Until a new or amended master program is adopted by Ecology, any decision on an application for a shoreline permit in the annexed shoreline area shall be based upon compliance with the SMP in effect for the area prior to annexation.

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8 DEFINITIONS

8.01 UNLISTED WORDS OR PHRASES

Any word or phrase not defined in SMP Chapter 8: Definitions that is called into question when administering the SMP shall be defined utilizing the SMA and its implementing rules.

The Shoreline Administrator may obtain secondary definition sources from one of the following sources:

A. The city's code.

B. Any city resolution, ordinance, policy, or regulation.

C. The most applicable statute or regulation from the state.

D. Legal definitions generated from case law or provided within a law dictionary.

E. The common dictionary.

8.02 DEFINITIONS

A

Accessory Structure or Use – A structure or use incidental, related, and clearly subordinate to the principal structure or use of a lot or main building. An accessory structure or use is only located on the same lot as a permitted principal structure or use.

Act – The Washington State Shoreline Management Act (SMA) (Chapter 90.58 RCW and addressed in WAC 173-27).

Adaptive Management – Adaptive management relies on scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty.

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

A. On a site immediately adjoining a critical area;

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B. A distance equal to or less than the required critical area buffer width and building setback;

C. A distance equal to or less than one-half mile from a bald eagle nest;

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

E. Bordering or within the floodway or floodplain; or

F. A distance equal to or less than 200 feet from a CARA.

Adoption by Rule – An official action by Ecology to make the city's SMP effective through rule consistent with the requirements of the Administrative Procedure Act, Chapter 34.05, thereby incorporating the adopted SMP or amendment into the state master program.

Advance Mitigation – Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in RCW 90.58.065.

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

Anadromous Fish – Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

Applicant – Any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a shoreline development proposal, permit, or approval.

Appurtenance – A building, structure, or development necessarily connected to the use and enjoyment of a single-family residence that is located landward of the OHWM and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed 250 cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the OHWM. Refer to WAC 173-27-040(2)(g).

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

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

Aquifer Recharge Areas – Areas that, due to the presence of certain soils, geology, and surface water, act to recharge ground water by percolation.

Aquifer, Sole Source – An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply 50% or more of the drinking water for an area without a sufficient replacement available.

Aquifer Susceptibility – The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

Associated Wetlands – Those wetlands that are in proximity to, and either influence or are influenced by, tidal waters or a lake or stream subject to the SMA. Refer to WAC 173-22-030(1).

Average Grade Level – The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property, which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the OHWM. Average grade level is determined by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. The use of an artificial grade is not allowed for determining height.

B

Best Available Science (BAS) – Information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-

900 through -925, BAS is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

Berm – A linear mound or series of mounds of sand or gravel generally that parallels the water at or landward of the line of ordinary high tide. In addition, a linear mound used to screen an adjacent use, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters and include conservation practices or systems of practices and management measures that:

A. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, or sediment;

B. Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

C. Protect trees, vegetation and soils designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and

D. Provide standards for proper use of chemical herbicides within critical 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. Their 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 Buffer Zone – The area contiguous with a shoreline of the state or a critical area that maintains the functions and/or structural stability of the shoreline of the state or critical area.

Building Setback – A required structural setback, specified in the SMP, measured horizontally upland from a shoreline buffer and perpendicular to the OHWM, if used with a shoreline buffer, or measured horizontally upland from and perpendicular to the OHWM, if used without a shoreline buffer, as specified in SMP Chapter 5: Specific Shoreline Use Policies & Regulations. A building setback protects the waterbody and shoreline buffer from the impacts related to use of a structure.

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Bulkhead – A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

C

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

City – The city of Westport.

Clean Water Act – The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

Clearing – The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

Coastal High Hazard Area – An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the flood insurance map(s) as Zone V1-30, VE, or V.

Compensation Project – Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

Compensatory Mitigation – Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

A. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

B. Creation – Actions performed to establish a wetland intentionally at a site where it did not formerly exist.

C. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality.

D. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

Comprehensive Plan – The document, including maps adopted by the city in accordance with applicable state law.

Conditional Use – A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable SMP. Refer to WAC 173-27-030(4).

Conservation Easement – A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. 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, therefore, providing permanent or long-term protection.

County – Grays Harbor County.

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

Critical Aquifer Recharge Area (CARA) – Areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

Critical Areas – Defined under Chapter 36.70A RCW includes the following areas and ecosystems:

A. Wetlands;

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

C. Fish and wildlife habitat conservation areas;

D. Frequently flooded areas; and

E. Geologically hazardous areas

Critical Area Tract – Land held in private ownership and retained in an open condition in perpetuity for the protection of critical areas. Lands within this type of dedication may include but are not limited to, portions and combinations of forest habitats, grasslands, shrub steppe, on-site watersheds, 100-year floodplains, shorelines or shorelines of statewide significance, riparian areas, and wetlands.

Critical Areas Special Study – A study that identifies and characterizes any critical area as a part of the larger development proposal site, assesses any hazards to the proposed development, assesses impacts of the development proposal on any critical areas on or adjacent to the development proposal site, and assesses the impacts of any alteration proposed for a critical area. Studies propose adequate mitigation, maintenance and monitoring plans and bonding

measures. Critical areas special studies include a scale map of the development proposal site and a written report.

Critical Facility – Facilities for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

Critical Saltwater Habitat – Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Critical Species – All animal and plant species listed by the state or federal government as threatened or endangered.

Cumulative Impact – The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over an interval of time.

D

Data Maps – A series of maps maintained by the city for graphically depicting the boundaries of critical areas.

Date of Filing – The date of receipt by Ecology. For a substantial development permit, the date of filing is the date of receipt by Ecology. For shoreline conditional use and variance permits, and substantial development permits simultaneously transmitted with a shoreline conditional use or variance permit, the date of filing is the date Ecology's decision is transmitted to the city.

Developable Area – A site or portion of a site that may be used as the location of development, in accordance with the rules of this Chapter.

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

Development Permit – Any permit issued by the city or other authorized agency, for construction, land use, or the alteration of land.

Dredging – Excavating or displacing of the bottom or shoreline of a waterbody. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain navigation channel depths or berths for navigational purposes; other dredging is for clean-up of polluted sediments.

E

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

Ecology – The Washington State Department of Ecology.

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

Emergency – An unanticipated and imminent threat to public health, safety, or the environment, requiring immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)). Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Administrator to be the appropriate means to address the emergency, upon abatement of the emergency the new structure shall be removed or any permit which would have been required, absent an emergency, obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this SMP. As a general matter, flooding or other seasonal events that can be anticipated and may occur but are not imminent are not an emergency.

Endangered Species Act (ESA) – A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

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

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Environmental Impacts – The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the SEPA. Refer to WAC 197-11-600 and WAC 197-11-444.

Environments, (Shoreline Environment) – Designations given specific shoreline areas based on the existing development pattern, the biophysical character and limitations, and the goals and aspirations of local citizenry, as part of an SMP.

Erosion – The process whereby wind, rain, water, and other natural agents mobilize and transport particles.

Erosion Hazard Areas – At least those areas identified by the USDA National Resources Conservation Service (NRCS) as having a "severe" rill and inter-rill erosion hazard.

Exemption – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. A use or activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the city's SMP. Shoreline conditional use permits and variances may also still be required even though the use or activity does not need a shoreline substantial development permit (WAC 173-27-040).

F

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

Feasible – An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

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

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

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

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

Fill – Raising the elevation or creating dry land by adding soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the OHWM, in wetland, or on shorelands.

Fish and Wildlife Habitat Conservation Areas – Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

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

B. Habitats of local importance, including but not limited to areas designated as priority habitat by the WDFW;

C. Commercial and recreational shellfish areas;

D. Kelp and eelgrass beds;

E. Herring and smelt spawning areas;

F. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;

G. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state;

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

I. State natural area preserves and natural resource conservation areas; and

J. Land essential for preserving connections between habitat blocks and open spaces.

Fish Habitat – Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

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

Flood Insurance Map – The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and include the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

Flood Insurance Study – The official report that was provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodplain – Term is synonymous with 100-year floodplain. The land area that is susceptible to being inundated with a one percent chance of being equaled or exceeded in a given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

Floodway – The area that has either: (i) has been established in FEMA FIRMs or floodway maps; or (ii) consists of those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Forested Wetland – A wetland with at least 30% of the surface area covered by woody vegetation greater than 20 feet in height that is at least partially rooted within the wetland.

Frequently Flooded Areas – Those lands in the floodplain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like. The one-hundred-year floodplain designations of the National Flood Insurance Program delineate the presence of frequently flooded areas.

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

G

Geologically Hazardous Areas – Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include erosion, landslide, seismic, mine, and volcanic hazards.

Geotechnical Report or Geotechnical Analysis – A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

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

Groin – A barrier-type structure extending from, and usually perpendicular to, the backshore into a waterbody. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

Ground Water – Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

Ground Water Management Area – A specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a ground water management program is required.

Ground Water Management Program – A comprehensive program designed to protect ground water quality, to ensure ground water quantity, and to provide for efficient management of water resources while recognizing existing ground water rights and meeting future needs consistent with local and state objectives, policies, and authorities within a designated ground water management area or subarea and developed pursuant to Chapter 173-100 WAC.

Growth Management Act (GMA) – Chapters 36.70A and 36.70B RCW, as amended.

Guidelines – See Shoreline Management Program (SMP) Guidelines, Chapter 173-26 WAC.

H

Habitat Conservation Areas – Areas designated as fish and wildlife habitat conservation areas.

Habitats of Local Importance – These areas include a seasonal range or habitat element with which a given species has a primary association, and which, if altered may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, talus, and wetlands. (WAC 365-190-030)

Hazard Areas – Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

Height – The vertical distance from the average finished grade to the highest point of the coping or parapet of a flat roof, or to the peak of the highest gable of a pitch, gambrel or hip roof, or to the highest point on a false wall on a building with a false front, or to the deck level on a mansard roof, or to the highest point on a structure; provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation.

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

Historic Resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

Hydraulic Project Approval (HPA) – A permit issued by the WDFW for modifications to waters of the state in accordance with Chapter 77.55 RCW.

I – J – K

Impermeable Surface – The area of a lot that is covered by impermeable surfaces, measured by percentage. A non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

Impervious Surface – Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces, which similarly impede the natural infiltration of stormwater.

In-Kind Compensation – To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

In-Water Structure – A structure placed by humans 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.

Infiltration – The downward entry of water into the immediate surface of soil.

Injection Well(s)

A. Class I – A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water.

B. Class II – A well-used to inject fluids:

    1. Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

    2. For enhanced recovery of oil or natural gas; or

    3. For storage of hydrocarbons that are liquid at standard temperature and pressure.

C. Class III – A well-used for extraction of minerals, including but not limited to the injection of fluids for:

1. In-situ production of uranium or other metals that have not been conventionally mined;
2. Mining of sulfur by Frasch process; or
3. Solution mining of salts or potash.

D. Class IV – A well used to inject dangerous or radioactive waste fluids.

E. Class V – All injection wells not included in Classes I, II, III, or IV.

Interested Party – Synonymous with party of record, all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified the city of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail (WAC 173-27-030(12)).

Isolated Wetlands – Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

Jetty – A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at a harbor entrance or river mouth mainly to prevent accretion from littoral drift in an entrance channel. Jetties also serve to protect channels from storm waves or cross currents and to stabilize inlets through barrier beaches. Most jetties are of riprapped mound construction.

L

Landscaping – Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Landslide Hazard Areas – Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including bedrock, soil, slope gradient, slope aspect, geologic structure, ground water, or other factors.

Low Impact Development (LID) – A stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

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M

Marina – Is defined as including the upland and in water properties bordered by the Westport Marina in the Westhaven Cove breakwaters and the USACE Revetment to the north and west, Harms Avenue and Montesano Street to the south, and Wilson Avenue and the area on both sides of Yearout Drive which is commonly referred to as Firecracker Point to the east.

Marina Related Commercial Development – Water-dependent, water-related, and water-enjoyment commercial development that are directly related to the structures, activities, and uses or support the users of the shorelines areas of the city. Examples include tourist related businesses such as food establishments, retail shops, museums, professional services, fishing equipment sales and service, information centers, rental shops, arcades and recreational facilities, charter fishing offices, and motels.

Marine – Pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

Marine Terminal – Includes industrial and commercial wharfs, piers, berths, docks, and similar structures used for shipping, marine cargo handling, transportation, navigation services, and vessel berthing, moorage, construction, repair, and resupply. See Mooring Structure.

Marram Grass – Also known as European Beach Grass (Amopholia arenaria).

Mature Forested Wetland – A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old or have average diameters (d. b. h.) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

May – An action that is acceptable, provided it conforms to the provisions of the SMP.

Mitigation or Mitigation Sequencing – Avoiding, reducing, or compensating for a proposal's environmental impact(s). See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

A. Avoiding the impact all together by not taking a certain action or parts of an action;

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

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

D. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

F. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Monitoring – Evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features. Monitoring includes gathering baseline data.

Mooring Structure – Used in conjunction with a marine terminal including all manner of overwater and in-water fixed structures which include single pilings or multiple pilings connected together to form or support an anchoring structure for the mooring of vessels and protection of terminals from moored vessels. Examples include, but are not limited to, mooring piles and numerous forms of dolphins and fender piles.

Must – A mandate; the action is required.

N

Native Growth Protection Area (NGPA) – An area where native vegetation is preserved for preventing harm to property and the environment, including, but not limited to, controlling surface water run-off and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.

Native Vegetation – Vegetation comprised of plant species that are indigenous to an area.

Natural or Existing Topography – The topography of the lot, parcel, or tract of real property immediately prior to site preparation or grading, including exaction or filling.

Non-Conforming Use or Development – A shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

Non-Water-Oriented Uses – Those uses that are not water-dependent, water-related, or water-enjoyment, which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair

shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

Normal Maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)). See also Normal Repair.

Normal Repair – To restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

O

Off-Site Compensation – To replace critical areas away from the site on which a critical area has been impacted.

On-Site Compensation – To replace critical areas at or adjacent to the site on which a critical areas has been impacted.

Ordinary High Water Mark (OHWM) – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the city or Ecology: provided, that in an area where the OHWM cannot be found, the OHWM adjoining salt water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(5).

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.

Over-Water Structure – A device or structure projecting over the OHWM, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

P – Q

Permeability – The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

Permit (or Shoreline Permit) – A shoreline substantial development permit, conditional use permit, or variance, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

Practical Alternative – An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

Preservation – The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

Primary Structure – The structure associated with the principal use of the property. It may also include single-family residential appurtenant structures, such as garages, attached decks, driveways, utilities, and septic tanks and drain fields, which cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses, or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

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

A. Comparatively high fish or wildlife density;

B. Comparatively high fish or wildlife species diversity;

C. Fish spawning habitat;

D. Important wildlife habitat;

E. Important fish or wildlife seasonal range;

F. Important fish or wildlife movement corridor;

G. Rearing and foraging habitat;

H. Important marine mammal haul-out;

I. Refugia habitat;

J. Limited availability;

K. High vulnerability to habitat alteration;

L. Unique or dependent species; or

M. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and

mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority Species – Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the four criteria listed below.

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

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

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

D. Criterion 4. Species listed under the ESA as either proposed, threatened, or endangered.

Project Area – All areas, including those within 50 feet of the area, proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

Proposed, Threatened, and Endangered Species – Those native species that are proposed to be listed or are listed in rule by the WDFW as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the ESA.

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

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Public Access – Public access is the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

Public Interest – The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public Use – To be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on more than a day use basis. Refer to WAC 332-30-106.

Qualified Professional – A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in geology, hydrology, or biology and professional experience related to the subject species.

B. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

C. A qualified professional for CARAs means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

R

RCW – Revised Code of Washington.

Recharge – The process involved in the absorption and addition of water to ground water.

Reclaimed Water – Municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment, it is no longer considered wastewater. Treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by Ecology and WDOH.

Recreational Facilities – Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement. For the purposes of the SMP, recreational facilities are divided into two categories:

A. Water-dependent (i.e. – moorage facilities, fishing piers, community docks); and

B. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping).

Re-establishment – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

Rehabilitation – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

Repair or Maintenance – An activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

Residential Development – Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multifamily development and the creation of new residential lots through land division.

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

Riparian – Of, on, or pertaining to the banks of a river, stream, or lake.

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

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.

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Run-Off – Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

S

Scrub-Shrub Wetland – A wetland with at least 30% of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

Section 404 Permit – A permit issued by the USACE for the placement of dredge or fill material or clearing in waters of the United States, including wetlands, in accordance with 33 USC § 1344. Section 404 permits may also be for endangered species consultation. They require a consultation under Section 7 of the ESA.

Seeps – A spot where water oozes from the earth, often forming the source of a small stream.

Seismic Hazard Areas – Areas that are subject to severe risk of damage because of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

Serviceable – Presently usable.

Shall – A mandate; the action must be done.

Shorelands or Shoreland Areas – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; adopted FEMA floodways and contiguous flood plain areas landward 200 feet from such adopted FEMA floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters, which are subject to the provisions of the SMA.

Shoreline Administrator – As appointed by the city's Mayor, the city's Shoreline Administrator is charged with the responsibility of administering the SMP.

Shoreline Buffer – A required vegetated open space, measured horizontally upland from and perpendicular to the OHWM. Shoreline buffers are naturally vegetated areas that protect the ecological functions of the shoreline and help to reduce the impacts of land uses on the waterbody.

Shoreline Environment Designations – The categories of shorelines established by the city's SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. See WAC 173-26-211.

Shoreline Jurisdiction – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within the city that are under the SMA. See definitions of shorelines, shorelines of the state, shorelines of statewide significance, shorelands, and wetlands.

Shoreline Management Act (SMA) – Chapter 90.58 RCW, as amended. Washington's SMA was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) – The comprehensive use plan and related use regulations, together with maps, diagrams, charts, or other descriptive material and text, which is used by the city to administer and enforce the permit system for shoreline management. The SMP must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Master Program (SMP) Guidelines – The state standards that the city must follow in drafting its SMP. The Guidelines translate the broad policies of the SMA into standards for regulation of shoreline uses.

Shoreline Modification – Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, application of chemicals, or significant vegetation removal.

Shoreline Permit – A shoreline substantial development permit, conditional use permit, variance, revision, or any combination thereof (WAC 173-27-030(13)).

Shoreline Stabilization – Actions taken to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural measures such as bulkheads and non-structural methods such as soil bioengineering. New stabilization measures include enlargement of existing structures.

Shorelines – All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

Shorelines Hearings Board (SHB) – A state-level quasi-judicial body, created by the SMA, which hears appeals on the granting, denying or rescinding of a shoreline permit, enforcement penalty and approval of SMPs in jurisdictions not fully planning under GMA . See RCW 90.58.170 and RCW 90.58.180.

Shorelines of Statewide Significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special use preferences apply and where greater planning

authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the State – The total of Shorelines and Shorelines of statewide Significance.

Should – A particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and the SMP, against taking the action.

Sign – A device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions or b) identifying or advertising a place, establishment, product, good, or service.

Significant Portion of its Range – That portion of a species range likely to be essential to the long-term survival of the population in Washington.

Significant Vegetation Removal – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Significantly Degrade – To cause significant ecological impact.

Single-Family Residence – A detached dwelling designed for and occupied by one family including those buildings, structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2)(g)).

Soil Survey – The most recent soil survey for the local area or county by the NRCS, USDA.

Solid Waste – All garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including all source-separated recyclable materials and yard waste.

Special Protection Areas – Aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to the following:

A. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

B. Ground water recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and

C. Sole source aquifer status.

Species – Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

Species, Endangered – Any wildlife species native to the state that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

Species of Local Importance – Those species of local concern designated by the city due to their population status or their sensitivity to habitat manipulation.

Species, Priority – Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the WDFW, including endangered, threatened, sensitive, candidate, and monitor species, and those of recreational, commercial, or tribal importance.

Species, Sensitive – Any wildlife species native to the state that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

Species, Threatened – Any wildlife species native to the state that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

Steep Slopes – Any ground that rises at an inclination of forty percent or more within a vertical elevation change of at least ten feet (a vertical rise of ten feet or more for every twenty-five feet of horizontal distance). A slope is delineated by establishing its toe and top as measured by averaging the inclination over at least ten feet of vertical relief.

A. Toe of a slope is a distinct topographic break in slope, which separates slopes inclined at less than forty percent from slopes equal to or in excess of forty percent. Where no distinct break exists, the toe of a steep slope is the lowermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

B. Top of a slope is a distinct, topographic break in slope, which separates slopes inclined at less than forty percent from slopes equal to or in excess of forty percent. Where no distinct break in slope exists, the top of slope shall be the uppermost limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet.

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Stream – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than 20 cubic feet per second and b) the water is contained within a channel. A channel is an open conduit either naturally or artificially created. This definition does not include artificially created irrigation, return flow, or stock watering channels. (WAC 173-22-030(8)).

Strict Construction – The close or narrow reading and interpretation of a statute or written document.

Structure – A permanent or temporary edifice or building, or a piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

Structural Shoreline Stabilization –Hard structural stabilization measures refer to those with solid, hard surfaces, such as concrete groins, retaining walls, and bulkheads, while soft structural stabilization measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include vegetation enhancement, upland drainage control, biotechnical measures, beach enhancement, anchor trees, gravel placement, rock revetments, gabions, concrete groins, retaining walls, and bluff walls, and bulkheads. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Sub-drainage Basin or Subbasin – The drainage area of the highest order stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

Substantial Development – A development of which the total cost or fair market value exceeds $6,416.00, or any development, which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. Consumer price index means, for a calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). A list of developments, uses, and

activities that are not considered substantial development is provided in SMP Chapter 7: Shoreline Administration (WAC 173-27-040(2)(a)).

T – U

Unavoidable Impacts – Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

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

Utilities – Services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, stormwater, sewage, and communications.

Utilities, Accessory – Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer, and stormwater service lines.

Utilities, Primary – Utilities comprised of trunk lines or mains that serve neighborhoods, areas, and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

V – W – Y – Z

Variance – A means to grant relief from the specific bulk, dimensional or performance standards specified in the SMP, but not a means to vary a shoreline use. Shoreline variances must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

Vulnerability – The combined effect of susceptibility to contamination and the presence of potential contaminants.

Water-Dependent Use – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-Enjoyment Use – A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's

ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-Oriented Use – Any combination of water-dependent, water-related, or water-enjoyment uses that serves as an all-encompassing definition for priority uses under the SMA.

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

A. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

B. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent uses and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

Water Quality – The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in the SMP, the term water quantity refers only to development and uses regulated under the SMP and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of the SMP, does not mean the withdrawal of ground water or diversion of surface water in accordance with RCW 90.03.250 through RCW 90.03.340.

Watershed Restoration Plan – A plan developed or sponsored by the WDFW, Ecology, or WSDOT acting within or in accordance with its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted in accordance with SEPA.

Well – A bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

Wellhead Protection Area – The portion of a zone of contribution for a well, well field, or spring, as defined using criteria established by Ecology.

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

Wetland Mitigation Bank – A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for providing advance mitigation to compensate for future, permitted impacts to similar resources.

Wetland Mosaic – An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water

Zone of Contribution – The area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

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APPENDIX 1: SHORELINE ENVIRONMENT DESIGNATION MAP

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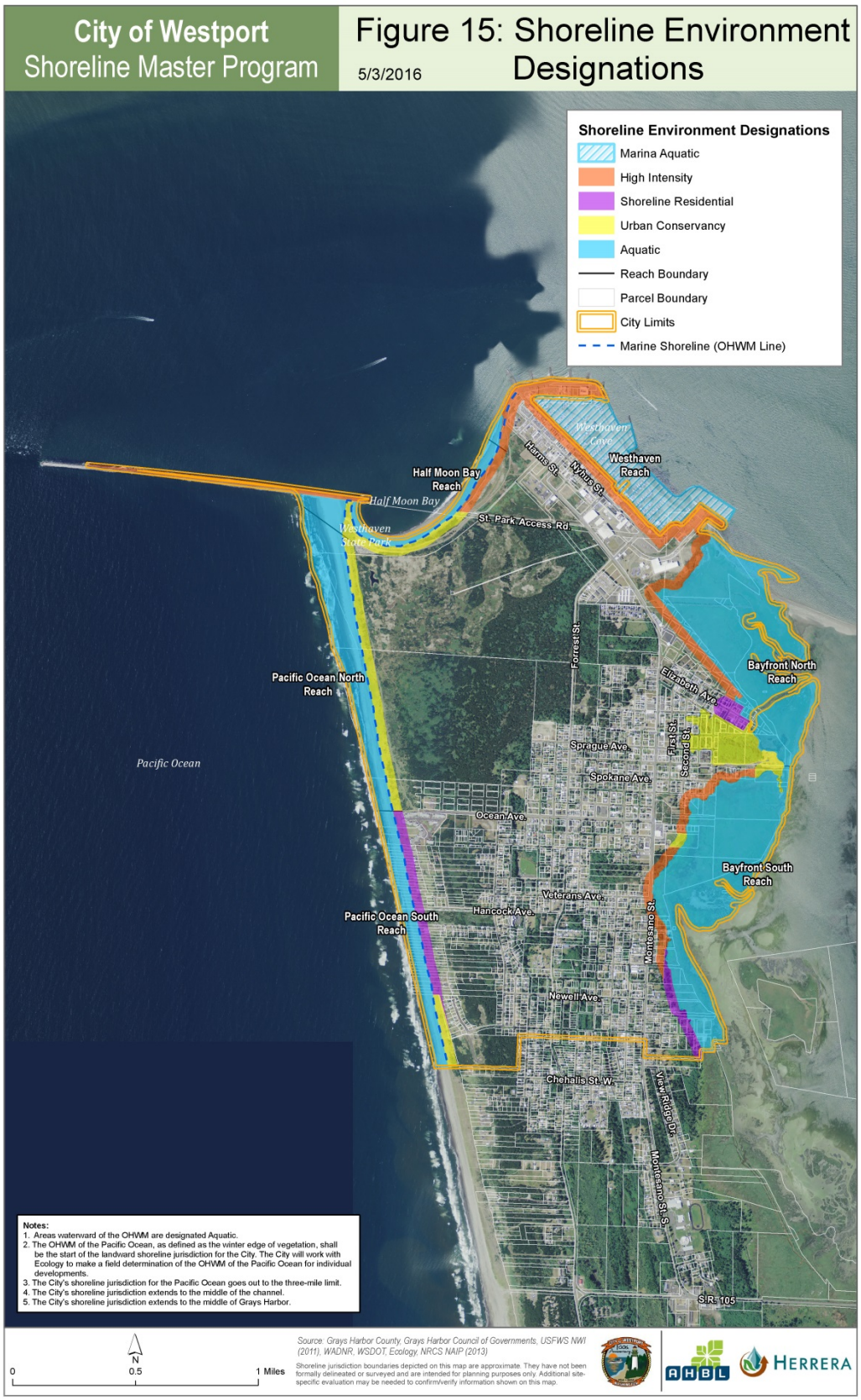
City of Westport
Shoreline Master Program
Figure 15: Shoreline Environment Designations
5/3/2016
Shoreline Environment Designations
Marina Aquatic
High Intensity
Shoreline Residential
Urban Conservancy
Aquatic
Reach Boundary
Parcel Boundary
City Limits
Marine Shoreline (OHWM Line)
Westhaven Cove
Westhaven Reach
Half Moon Bay Reach
Half Moon Bay
Westhaven State Park
St. Park Access Rd
Hanns St.
Myhre St.
Forest St.
Pacific Ocean North Reach
Pacific Ocean
Elizabeth Ave.
Bayfront North Reach
Sprague Ave.
Spokane Ave.
First St.
Second St.
Ocean Ave.
Bayfront South Reach
Veterans Ave.
Hancock Ave.
Pacific Ocean South Reach
Montesano St.
Newell Ave.
Chehalis St. W.
View Ridge Dr.
Montesano St. S.
S.R. 105
Notes:
1. Areas waterward of the OHWM are designated Aquatic.
2. The OHWM of the Pacific Ocean, as defined as the winter edge of vegetation, shall be the start of the landward shoreline jurisdiction for the City. The City will work with Ecology to make a field determination of the OHWM of the Pacific Ocean for individual developments.
3. The City's shoreline jurisdiction for the Pacific Ocean goes out to the three-mile limit.
4. The City's shoreline jurisdiction extends to the middle of the channel.
5. The City's shoreline jurisdiction extends to the middle of Grays Harbor.
N
0
0.5
1 Miles
Source: Grays Harbor County, Grays Harbor Council of Governments, USFWS NWI (2011), WADNR, WSDOT, Ecology, NRCS NAIP (2013)
Shoreline jurisdiction boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm/verify information shown on this map.
AHBL
HERRERA

APPENDIX 2: CRITICAL AREAS REGULATIONS

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[Critical Areas Regulations applicable in shoreline jurisdiction to be added]

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