8. Shoreline Administration and Enforcement

8.1 Purpose

The purpose of this Chapter is to provide provisions for the administration and enforcement of a permit system that shall implement the State Shoreline Management Act of 1971, Chapter 90.58 RCW; Ecology regulations and guidelines adopted as Chapters 173-26 and 173-27 WAC; and the Woodland Shoreline Master Program, together with amendments and/or additions thereto.

Issuance of any shoreline permit or exemption by the City does not remove requirements for compliance with other federal, state and county permits, procedures and regulations.

8.2 Procedure

All shoreline permits shall be processed in accordance with WMC Title 19 Development Code Administration.

8.3 Shoreline Overlay

Shoreline regulations shall apply as an overlay and in addition to development regulations, including but not limited to zoning, environmental regulations, development standards, subdivision regulations, and other regulations established by the City.

A. Allowed uses shall be governed by both the zoning regulations in Title 17 WMC and this Program. The most restrictive provisions of the applicable zoning district and SED shall apply.

B. Allowed uses shall be limited by the general polices and specific regulations regarding use preferences for water-dependent and water-oriented uses. Allowed uses may be specified and limited in specific shoreline permits. In the case of non-conforming development, the use provisions of this code shall be applied to any change of use, including occupancy permits (see Section 3.3, Nonconforming Use and Development).

C. In the event of any conflict between shoreline policies and regulations and any other regulations of the City, shoreline policies and regulations shall prevail unless other regulations provide greater protection of the shoreline environment and aquatic habitat.

D. All regulations applied within the shoreline shall be liberally construed to give full effect to the objectives and purposes for which they have been enacted. Shoreline Master Program policies, found in Chapter 4, establish intent for the shoreline regulations in addition to RCW 90.58 and Chapters 173-26 and 173-27 WAC.

8.4 Coordination with Other Agencies

The City will coordinate on issues relating to ecological conditions, functions and processes and on wetland and OHWM delineations with Ecology, the Washington Department of Natural Resources and the Washington Department of Fish and Wildlife as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not unduly extend review times.

8.5 Development Compliance

A. All uses and developments within the jurisdiction of Act shall be planned and carried out in a manner that is consistent with this Program and the policies of the RCW 90.58 and this SMP, regardless of whether an SSDP, SLE, Shoreline Variance, or SCUP is required. Any authorization, including an SLE, issued under the Shoreline Management Act may be conditioned by the city to ensure compliance with the 90.58 RCW and this SMP.

B. Regulation of private property to implement any Program goals such as public access and protection of ecological functions, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060.

C. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Washington Department of Fish and Wildlife Hydraulic Project Approvals (HPAs), U.S. Army Corps of Engineers Section 404 permits, Washington Department of Ecology Water Quality Certification (Section 401) and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with all applicable requirements, apart from the process established in this Chapter.

D. The City will provide a mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas.

8.6 Shoreline Permit Application Procedures

8.6.1 Application Requirements.

A. A complete application for an SSDP, SCUP, or Shoreline Variance shall contain, at a minimum, the information required for a complete application specified in WAC 173-27-180, as determined by the City.

B. Critical Area Submittal Requirements.

1. When an applicant submits a shoreline application for any development proposal, the application shall submit a complete critical area identification checklist (see Appendix F).

2. The City shall review the critical area identification checklist and conduct a preliminary environmental review, based on existing in-house resources and data, to determine whether critical areas are known or suspected to exist on the applicant's parcel. However, the ultimate burden of proof is on the applicant to provide sufficient data to the City should the City suspect that critical areas are present. If it is determined that the information presented is not sufficient to adequately evaluate a proposal, the City shall notify the applicant that additional studies as specified herein shall be provided.

3. Site Inspection. Upon receipt of a completed critical area identification checklist, the Director shall conduct a site visit of the proposed project site to determine if any critical area conditions exist on site. The Director shall notify the applicant prior to the inspection. Reasonable access shall be provided for the purposes of site inspections.

4. Review of Available Information. The Director may determine if a critical area report (see Section 4.1 in Appendix B) is needed by using the following indicators:

   a. Information obtained from the critical area identification checklist;

   b. Maps depicting critical areas, soil types and other appropriate features;

   c. Information and scientific opinions from appropriate agencies;

   d. Washington Department of Fish and Wildlife Priority Habitats and Species (PHS) and Salmonscape maps;

   e. Documentation from other scientific sources; and

   f. Findings by qualified professionals or a reasonable belief by the Director that a critical area may exist on or adjacent to the proposed activity.

5. Determination of whether a Critical Area Report is Needed.

   a. Critical Area Present but No Impact. If the Director determines there are critical areas within the proposed project, but that the project is not likely to degrade the functions or values of a critical area, then the Director may waive the requirements of a critical area report. The Director shall consult with resource agencies or individuals with special expertise, as necessary, to

assist in the determination of critical areas and potential impacts associated with project proposals. A waiver may be granted if all of the following are met:

i. No alteration of the critical area or buffer will occur;

ii. No impact to the critical area will occur that cannot be mitigated under the no-net-loss requirements of this Program; and

iii. The proposal is consistent with other applicable regulations and standards.

b. Critical Areas May Be Affected. If the Director determines that a critical area may be affected by a proposal, then the applicant shall be required to submit a critical area report prior to any further project activity. The Director shall inform the applicant within ten (10) business days following the site visit of his findings and indicate what critical area types should be addressed in the report.

A Determination by the Director is not an expert classification regarding the presence of critical areas. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances. If a qualified professional determines no critical areas exist or will not be affected by the proposal, the Director may reconsider their determination.

6. The City shall have the option of soliciting comments or technical assistance on the shoreline permit application from resource agencies. These agencies shall have fourteen (14) days from the date the application is circulated by the City for comments. If a response is not received from the resource agency within the 14-day review period, the City will assume there are no comments on the project or activity forthcoming from the resource agency.

7. Any person preparing to submit an application for development or use of land located within a critical area or associated buffer shall first apply for a pre-application conference, unless waived by the City in concurrence with the applicant. At this meeting, the City shall discuss the requirements of these regulations and provide applicable critical areas maps, scientific information, and other source materials. The City shall summarize the application review process and work with the proponent to identify potential issues that may arise during the review process in addition to discussing other permit procedures and requirements.

C. In addition to the public notice requirements of WMC 19.06.02, the following notice shall be provided for each application for a SSDP, SCUP, or Shoreline Variance.

1. Within fourteen (14) days after the City has made a determination of completeness on the project permit application, the City shall issue public notice including:

   a. The date of application, the date of the notice of completion for the application, and the date of the notice of application;

   b. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, RCW 36.70B.090 and WAC 173-27-180;

   c. The identification of other permits not included in the application to the extent known by the City;

   d. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a City land use bulletin, the location where the application and any studies can be reviewed;

   e. A statement of the public comment period, which shall be not less than fourteen (14) days following the date of notice of application;

   f. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Public comments shall be accepted at any time prior to the closing of the record of an open record hearing, if any, or, if no open record hearing is provided, prior to the decision on the project permit;

   g. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

   h. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and

   i. Any other information determined appropriate by the City.

2. Public notice shall include:

   a. Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred (300) feet of the boundary of the property upon which the development is proposed.

   b. Posting of Project Site. Posting of the project site shall be provided in accordance with WMC 19.06.030A and 19.06.070A.

c. Publication shall be in accordance with WMC 19.06.030A and 19.06.070A. If an open record public hearing is required, an additional notice shall be published at least ten (10) days prior to the hearing. The shoreline notice shall be published twice, the second at least thirty days prior to the date of the public hearing on the underlying project permit. This notice shall include the project location in other than a legal description, a brief description of the project, type of permit(s) required, comment period dates, hearing dates if applicable, and a location where the complete application may be reviewed.

8.6.2 Critical Areas Determination

A. Determination and Review.

1. The Director shall make a determination as to whether the proposed activity and mitigation is consistent with the provisions of this Program. Any alteration to a critical area, unless otherwise provided for in this Program, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

   a. Impacts to critical areas are avoided or minimized in accordance with Section 4.4, Mitigation Sequencing, of Appendix B;

   b. There is no unreasonable threat to public health, safety, or welfare;

   c. The proposal is consistent with this Program and the public interest;

   d. Permitted alterations are mitigated in accordance with Section 4.5, Mitigation Plan Requirements, of Appendix B;

   e. The critical area functions and values are protected in accordance with the most current, accurate, and complete scientific and technical information available; and

   f. The proposal is consistent with other applicable regulations and standards.

2. The City may condition a proposed activity as necessary to mitigate for impacts to critical areas and to conform to standards of this Program.

3. Any project that cannot adequately mitigate for impacts to critical areas shall be denied.

4. When the determination of critical areas has been completed, a written report will be issued to the applicant, placed in an address file, and a copy sent to the property owner if different from the applicant. A property owner may request a re-evaluation by the City once in any twelve (12)-month period when a change in

physical conditions or government institutional actions warrants such re-evaluation.

5. Determination, Favorable. Upon determination that a proposed activity meets the requirements of Subsection 8.6.1, and complies with the requirements of this Program, the Director shall prepare a written notice of determination and identify any conditions of approval. Any changes to the conditions of approval shall void the previous determination pending a review of the alternative proposal and conditions by the Director.

6. Determination, Unfavorable. Upon determination that a proposed activity does not meet the above criteria and/or does not adequately mitigate for impacts to critical areas, the Director shall prepare a written notice of determination and identify the findings. A revised critical area report may be submitted by the applicant for consideration, following notice of the determination. The Director may make a new determination based on the revised critical area report.

B. Critical Area Review, Complete. The City's determination shall be complete upon determination to approve, approve with conditions, or deny the proposal or activity. No activity or shoreline permit shall be approved or issued for an activity that does not adequately mitigate for impacts to critical areas and/or does not fully comply with the provisions of this Program.

8.6.3 Approval Criteria

In order to approve any development within shoreline jurisdiction, the City must find that a proposal is consistent with the following criteria in addition to the requirements of WMC Title 17 Zoning:

A. All use regulations of this Program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, particularly the preference for water-oriented uses. If a non-water-oriented use is approved, the decision maker shall enter specific findings documenting why water-oriented uses are not feasible.

B. All bulk and dimensional regulations of this Program appropriate to the SED and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a Shoreline Variance.

C. All policies of this Program appropriate to the SED and the type of use or development activity proposed shall be considered and compliance demonstrated, subject to liberal construction to give full effect to the objectives and purposes for which they have been enacted.

8.6.4 Written Findings Required

All permits or Shoreline Letters of Exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Director addressing compliance with policies and regulations of this Program. The Director may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the Program.

8.6.5 Time Requirements for Shoreline Permits

A. The time requirements of this Section shall apply to all SSDPs and SCUPs and to any development authorized pursuant to a variance authorized under this Program.

B. No construction pursuant to such permit shall begin or be authorized and no building, grading or other construction permits or use permits shall be issued by the City until 21 days from the date an SSDP was filed with Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

C. No permits and construction pursuant to an SCUP or Shoreline Variance shall begin or be authorized until 21 days from the date of notification of approval by Ecology, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

D. Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this Program, must be commenced within two (2) years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary. However, the City may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed with the City before the expiration date and notice of the proposed extension is given to parties of record and Ecology. Construction activities or commencement of construction means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed.

E. A permit authorizing construction shall extend for a term of no more than five (5) years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and Subsection F of this Section. If an applicant files a request for an extension prior to expiration of the shoreline permit, the City shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to

parties of record and Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.

F. If it is determined that standard time requirements of Subsections D and E should not be applied, the Hearing Examiner, upon a finding of good cause, may establish shorter time limits, provided that as a part of action on an SCUP or Shoreline Variance the approval of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.

G. For purposes of determining the life of a shoreline permit, the effective date of a SSDP, SCUP, or Shoreline Variance shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods do not include the time during which a use or activity was not actually pursued due to the pendency of appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed.

H. It is the responsibility of the applicant to inform the City of the pendency of other permit applications filed with agencies other than the City, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the City prior to the expiration date established by the shoreline permit or the provisions of this Section, the expiration of a permit shall be based on the effective date of the shoreline permit.

I. If the granting of a shoreline permit by the City is appealed to the Shoreline Hearings Board, and the Shoreline Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shoreline Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(b).

8.6.6 Surety Devices

The City may require the applicant to post a surety device in favor of the City to assure full compliance with any terms and conditions imposed on any shoreline permit. Said surety device shall be in an amount to reasonably assure the City that any deferred improvement will be carried out within the time stipulated and in accordance with approved plans.

8.6.7 Construction Permit Compliance

For all development within shoreline jurisdiction, the Building Official shall not issue a construction permit for such development until compliance with this Program has been documented. If a shoreline permit is required, no building permit shall be issued until all comment and appeal periods have expired. Any permit issued by the Building Official for

such development shall be subject to the same terms and conditions that apply to the shoreline permit.

8.6.8 Rulings to State

Any ruling on an application for an SSDP or SCUP under authority of this Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with Ecology and the Attorney General by the City. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

8.6.9 Appeals

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of receipt of the decision as provided for in RCW 90.58.140(6).

8.7 Shoreline Letter of Exemption (SLE)

A. An SSDP shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to WAC 173-27-040, see Appendix E. Any development which occurs within the regulated shorelines of the state, whether it requires a permit or not, must be consistent with the intent of the Act and this Program.

B. Any person claiming exemption from the permit requirements of this Program as a result of the exemptions specified in this Section shall make application for a Shoreline Letter of Exemption (SLE). Requests or applications for an SLE shall be submitted in a format prescribed by the City and include such documentation as may be required by the City.

C. If any part of a proposed development is not eligible for exemption, then a shoreline permit is required for the entire proposed development project.

D. The City may issue a SLE for proposed development activities or programs in jurisdictional shoreline areas that do not require an SSDP per Section 3.2, Exemptions from a Shoreline Substantial Development Permit.

E. An SLE may be approved by the Director and may be appealed to the Hearings Officer per Title 19 WMC (1996).

F. An SLE may be issued for project-specific development activities or for programmatic, routine activities that may be repeated on a regular basis in accordance with approved standards such as the repair and maintenance of roads, right-of-ways, trails, parks, and/or storm water facilities.

G. Activities authorized through the issuance of an SLE must comply with all applicable provisions of the Woodland Municipal Code and comply with conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and the Act.

H. If the exemption is approved, the City Director shall prepare and provide an SLE to the applicant and Ecology indicating the specific applicable exemption provisions from WAC 173-27-040 and providing a summary of the project's consistency with this Program and the Act, as amended.

I. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial.

8.8 Shoreline Substantial Development Permit (SSDP)

A. An SSDP shall be required for projects occurring within the City's shoreline jurisdiction pursuant to the requirements and procedures contained in WAC 173-27 (Shoreline Management Permit and Enforcement Procedures); except for those projects described in Section 3.2, Exemptions from a Shoreline Substantial Development Permit:

B. Upon the review of materials submitted by an applicant the City may, at its discretion, require peer review be completed by a consultant chosen by the City, at the sole expense of the applicant.

C. Time requirements for SSDPs are as follows (See WAC 173-27-090 for complete language.):

1. Construction activities shall commence, or where no construction activities are involved, the use or activity shall commence within two (2) years of the effective date of an SSDP.

2. The period for commencement of construction or use may be extended once for a one (1)-year period if a request based on reasonable factors is filed before the expiration date and notice of the proposed extension is given to parties of record.

3. The authorization to conduct certain development activities (see WAC 173-27-090) shall terminate five (5) years after the effective date of an SSDP.

4. The authorization period to conduct development activities may be extended once for a one (1)-year period if a request based on reasonable factors is filed before the expiration date and notice of the proposed extension is given to parties of record and the department.

5. The time periods in Subsections C.1 and C.3, above, do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

D. Appeals to the Shorelines Hearings Board shall be consistent with RCW 90.58.140. Construction pursuant to a shoreline permit may not begin or be authorized until twenty-one (21) days from the date the permit decision was filed with Ecology.

8.9 Shoreline Conditional Use Permit (SCUP)

The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of this Program.

A. An SCUP is required for uses and development that are not classified in the Program and for those uses and modifications as indicated in Table 7-1 of this Program. In authorizing a conditional use, the City or Ecology may attach special conditions to the permit to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this Program.

B. In addition to the approval criteria in Section 8.6.3, Approval Criteria, the criteria for approving conditional uses shall be consistent with WAC 173-27-160 *Review Criteria for Conditional Use Permits* and shall include the following:

1. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020 and this Program;

2. That the proposed use will not interfere with the normal public use of public shorelines;

3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Program;

4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

5. That the public interest suffers no substantial detrimental effect.

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

D. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this Program.

E. Uses which are specifically prohibited by this Program may not be authorized pursuant to either Subsection A or C of this Section.

F. Conditional uses must be submitted to Ecology for their approval, approval with conditions, or denial pursuant to WAC 173-27-200.

8.10 Shoreline Variances

A. A development may be granted which is at variance with the criteria established in this Program where, owing to special conditions pertaining to the specific piece of property, the literal interpretation and strict application of the criteria established in this Program would cause undue and unnecessary hardship or practical difficulties. A variance may be required for a use that does not require an SSDP but which may not be approved because it does not comply with the provisions of this Program.

B. The fact that the applicant might make a greater profit by using his property in a manner contrary to the intent of this Program is not, by itself, sufficient reason for a variance.

C. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate extraordinary circumstances and that the public interest shall suffer no substantial detrimental effect.

D. For a variance to be approved, the City must find each of the following:

1. Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

   b. That the hardship described in 1.a of this Subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;

c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this program and will not cause adverse impacts to the shoreline environment;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

2. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030 (2)(b), or within any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

   b. That the proposal is consistent with the criteria established under Subsection 1.b through 1.f of this Section; and

   c. That the public rights of navigation and use of the shorelines will not be adversely affected.

3. In the granting of all Shoreline Variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

8.11 Revisions to Permits

A. When an applicant seeks to revise a proposal authorized with an SLE, SSDP, SCUP, or shoreline variance, whether such permit was granted under this Program or under the Program in effect prior to adoption of this Program, the City shall request from the applicant detailed plans and text describing the proposed changes to the project. If the staff determines that the proposed changes are within the general scope and intent of the original SLE, SSDP, SCUP, or shoreline variance, as the case may be, the revision may be approved by the City without the need for the applicant to file a new permit application provided the development is consistent with the Act, this program and WAC 173-27-100.

B. All shoreline permit revisions shall be transmitted to Ecology upon the City's final decision. If the revision is to an SLE or SSDP, it becomes effective immediately upon final decision by the City. If the permit revision is concerning a shoreline conditional use or shoreline variance permit, the proposed revision is subject to Ecology review. Ecology shall respond with its final decision on the permit revision request within fifteen (15) days of the date of receipt by Ecology per WAC 173-27-100(6). The City shall notify parties of record of the final decision.

C. Shoreline permit revisions may be appealed to the Shoreline Hearings Board within twenty-one (21) days of the final decision to the permit revision in accordance with the provisions of WAC 173-27-100(8).

8.12 Enforcement

All provisions of this Program shall be enforced by the City. For such purposes, the City or authorized representative shall have the power of a police officer.

8.12.1 Rescission of Permits

A. Any shoreline permit issued under the terms of this Program may be rescinded or suspended upon a finding that a permittee has not complied with conditions of the permit.

B. Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which shall be sent by registered or certified mail, return receipt requested, to the address listed on the application or to such other address as the applicant or permittee may have advised the City; or such notice may be served on the applicant or permittee in person or his agent in the same manner as service of summons as provided by law.

C. Before any such permit can be rescinded, a public hearing shall be held by the Hearing Examiner. Notice of the public hearing shall be made in accordance with WMC 19.06.070. The decision of the Hearing Examiner shall be the final decision of the City on all rescinded applications. A written decision shall be transmitted to Ecology, the Attorney General's office, the applicant, and such other departments or boards of the City as are affected thereby and the legislative body of the City.

D. Ecology may petition the Shoreline Hearings Board for a rescission of the permit if Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, as provided by RCW 90.58.140(8).

8.12.2 Violation and Penalties

A. General

1. Every person violating any of the provisions of this Program or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding one thousand dollars ($1,000.00), or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.

2. The City Attorney may bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the Shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

3. Any person subject to the regulatory program of this Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney shall bring suit for damages under this Subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this Subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

B. Unauthorized Critical Area Alterations and Enforcement.

1. When a critical area or buffer has been altered in violation of this Program, the City shall have the authority to issue a stop-work order to cease all ongoing development work and order restoration, rehabilitation or replacement at the owner's or responsible parties' expense.

2. Restoration Plan Required. No work on the site shall be allowed until a restoration plan has been prepared and approved by the City in accordance with this Program and Appendix B.

3. Minimum Performance Standards.

   a. For unauthorized alterations to critical aquifer recharge areas, frequently flooded areas, wetlands habitat conservation areas, or associated buffers, the following shall be required at a minimum in accordance with an approved restoration plan:

      i. Historic functional and structural values, water quality, habitat, and soils shall be restored;

ii. Critical areas and buffers shall be replanted with native vegetation, types, sizes and densities, historically found on the site; and

iii. Historic functions and values shall be replicated.

b. For flood and geological hazards, the following standards shall be met:

i. Risk of public or personal hazard resulting from the alteration shall be eliminated or significantly reduced to a level equal to the pre-altered state;

ii. Hazard areas and buffers shall be replanted with native vegetation to minimize the hazard.

4. Site Visits/Inspections. Reasonable access shall be provided. The Director is authorized to make site visits/inspections as necessary to enforce this Program.

8.12.3 Shoreline Moratorium

A. The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act.

B. Prior to adopting such moratorium or other interim official controls, the City Council shall:

1. Hold a public hearing on the moratorium or control within 60 days of adoption;

2. Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes; and

3. Notify Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing held.

C. Said moratorium or other official control shall provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

D. Said moratorium or control adopted under this Section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the City Council complies with Subsection B before each renewal.

E. If a moratorium or control is in effect on the date a proposed Shoreline Master Program or amendment is submitted to Ecology, the moratorium or control must remain in effect until Ecology's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if Ecology has not taken final action.

8.13 Restoration Project Relocation of OHWM

The City may grant relief from development standards and use regulations in this Program when the following apply:

A. A shoreline restoration project causes, or would cause, a landward shift in the OHWM, resulting in the following:

1. Land that had not been regulated under this Chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or

2. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of this Program; and

3. Application of Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.

B. The proposed relief meets all of the following criteria:

1. The proposed relief is the minimum necessary to relieve the hardship.

2. After granting the proposed relief, there is net environmental benefit from the restoration project.

3. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with this Program.

4. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this Section.

C. The application for relief must be submitted to Ecology for written approval or disapproval. This review must occur during the Ecology's normal review of and SSDP, SCUP, or Shoreline Variance. If no such permit is required, then Ecology shall conduct its review when the City provides a copy of a complete application and all supporting information necessary to conduct the review.

1. Except as otherwise provided in Subsection D of this Section, Ecology shall provide at least twenty (20) days of notice to parties that have indicated interest to Ecology in reviewing applications for relief under this Section, and post the notice on to their website.

2. Ecology shall act within thirty (30) calendar days of close of the public notice period, or within thirty (30) days of receipt of the proposal from the local government if additional public notice is not required.

D. The public notice requirements of Subsection C of this Section do not apply if the relevant shoreline restoration project was included in the Shoreline Restoration Plan (see Appendix C) as defined in WAC 173-26-201, as follows:

1. The restoration plan has been approved by the Ecology under applicable Shoreline Master Program guidelines; and

2. The shoreline restoration project is specifically identified in the Shoreline Restoration Plan or is located along a shoreline reach identified in this Program or Shoreline Restoration Plan as appropriate for granting relief from shoreline regulations; and

3. This Program or Shoreline Restoration Plan includes policies addressing the nature of the relief and why, when, and how it would be applied.

8.14 Land Division

Prior to approval of any land division, such as short subdivisions, preliminary long plats, and boundary line adjustments within shoreline jurisdiction, the City shall document compliance with bulk and dimensional standards as well as policies and regulations of this Program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities, and future use associated with such lands are consistent with this Program.

8.15 Amendments Authorized

The provisions of the Use Regulations or the Shoreline Environment Designation Map in this Program may be amended as provided for in RCW 90.58.120 and RCW 90.58.200 and Chapter 173-26 WAC.

8.15.1 Burden of Proof

Proponents for Shoreline Environment Designation Map redesignations (i.e., amendments to the Shoreline Environment Designation Map) shall bear the burden of proof for demonstrating consistency with the criteria of this Program, Chapter 173-26 WAC, and the goals and policies of the City of Woodland Comprehensive Plan.

8.15.2 Transmittal to the Department of Ecology

Subsequent to final action by the council adopting or amending the Shoreline Master Program or official control, said Shoreline Master Program, official control, or amendment thereto shall be submitted to Ecology for approval. No such Shoreline Master Program, official control, or amendment thereto shall become effective until approval by Ecology is obtained pursuant to RCW 90.58.90.