City of McCleary
Ecology Grant Agreement #1400654

SHORELINE MASTER PROGRAM

CITY OF MCCLEARY

June 2016

Ecology Grant Agreement Task 10

Prepared for:

City of McCleary
100 S. 3rd Street
McCleary, WA 98557
(360) 495-3667
www.cityofmccleary.com

Prepared with assistance from:

THE WATERSHED COMPANY

Prepared with funding from:

DEPARTMENT OF ECOLOGY
State of Washington

TABLE OF CONTENTS

1 GENERAL PROVISIONS 1
1.1 Purpose 1
1.2 Authority 1
1.3 Applicability 1
1.4 Relationship to other regulations 2
1.5 Liberal construction 2
1.6 Severability 2
1.7 Effective date 2
2 DEFINITIONS 2
3 SHORELINE JURISDICTION 12
3.1 Shoreline jurisdiction 12
3.2 Official Shorelines Map 13
4 SHORELINE POLICIES 14
4.1 General policies 14
4.1.1 Archaeological, historic & cultural sites 14
4.1.2 Critical areas 14
4.1.3 Environmental protection 15
4.1.4 Flood hazard reduction 15
4.1.5 Public access 15
4.1.6 Vegetation conservation 15
4.1.7 Water quality & quantity 16
4.2 Shoreline use, development & modification policies 16
4.2.1 General shoreline use, development & modification policies 16
4.2.2 Agriculture 17
4.2.3 Aquaculture 17
4.2.4 Boating facilities 17
4.2.5 Breakwaters, jetties & groins 17
4.2.6 Commercial development 17
4.2.7 Dredging & dredge material disposal 18
4.2.8 Fill & grading 18
4.2.9 Forest practices 18
4.2.10 Industrial development 18
4.2.11 Institutional development 18
4.2.12 Mining 18
4.2.13 Recreational development 18
4.2.14 Residential development 19

4.2.15 Shoreline habitat & natural systems enhancement projects 19
4.2.16 Shoreline stabilization 19
4.2.17 Transportation & parking 19
4.2.18 Utilities 19
5 ENVIRONMENT DESIGNATIONS 20
5.1 Urban Conservancy 20
5.1.1 Purpose 20
5.1.2 Designation 20
5.1.3 Management policies 20
5.2 Shoreline Residential 21
5.2.1 Purpose 21
5.2.2 Designation 21
5.2.3 Management policies 21
5.3 Aquatic 21
5.3.1 Purpose 21
5.3.2 Designation 21
5.3.3 Management policies 21
6 GENERAL REGULATIONS 22
6.1 Archaeological, historic & cultural resources 22
6.2 Critical areas 26
6.3 Environmental protection 26
6.4 Flood hazard reduction 28
6.5 Public access 30
6.6 Vegetation conservation 32
6.7 Water quality & quantity 35
7 SHORELINE USE, DEVELOPMENT & MODIFICATION REGULATIONS 35
7.1 General shoreline use, development & modification regulations 35
7.2 Agriculture 38
7.3 Aquaculture 38
7.4 Boating facilities 39
7.5 Breakwaters, jetties & groins 39
7.6 Commercial development 39
7.7 Dredging & dredge material disposal 40
7.8 Fill & grading 41
7.9 Forest practices 42
7.10 Industrial development 43
7.11 Institutional development 43
7.12 Mining 43
7.13 Recreational development 43

7.14 Residential development 44
7.15 Shoreline habitat & natural systems enhancement projects 44
7.16 Shoreline stabilization 45
7.17 Transportation & parking 48
7.18 Utilities 49
8 ADMINISTRATION, PERMITS & ENFORCEMENT 50
8.1 Administrative responsibilities 50
8.2 Nonconforming uses, lots & structures 51
8.3 Exemptions 51
8.4 Shoreline permit application requirements 52
8.5 Shoreline permit application notice requirements 54
8.6 Special shoreline permit procedures for limited utility extensions & bulkheads 56
8.7 Shoreline permit review criteria 56
8.7.1 Review criteria for all development 56
8.7.2 Review criteria for shoreline substantial development permits 56
8.7.3 Review criteria for shoreline conditional use permits 57
8.7.4 Review criteria for shoreline variance permits 58
8.8 Filing with Ecology 59
8.9 Time requirements of shoreline permits 60
8.10 Shoreline permit revisions 61
8.11 Appeals of final permit decisions 63
8.12 Enforcement 63
8.13 Amendments 63
8.14 Shoreline activity tracking 63
8.15 Annexation 63

LIST OF TABLES

Table 7-1. Shoreline use, development, & modification matrix 36

APPENDICES

Appendix A: Official Shorelines Map

Appendix B: Shoreline Critical Areas Regulations

SHORELINE MASTER PROGRAM

CITY OF MCCLEARY

1 GENERAL PROVISIONS

1.1 Purpose

(1) The purpose of the City of McCleary Shoreline Master Program is to implement the requirements of RCW 90.58, the Shoreline Management Act of 1971. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses and development on shorelines of the state.

1.2 Authority

(1) The City's Shoreline Master Program is enacted and administered according to the following state law and rules:

A. The Shoreline Management Act of 1971, RCW 90.58;

B. State master program approval/amendment procedures and master program guidelines, WAC 173-26;

C. Shoreline management permit and enforcement procedures, WAC 173-27; and

D. Other implementing rules.

1.3 Applicability

(1) The City's Shoreline Master Program shall apply to all shorelines of the state as defined in RCW 90.58.030.

(2) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to RCW 90.58, the Shoreline Management Act, and the City's Shoreline Master Program whether or not a permit is required.

(3) Federal agency activities must comply with WAC 173-27-060.

(4) Nothing in the City's Shoreline Master Program shall affect any rights established by treaty to which the United States is a party.

1.4 Relationship to other regulations

(1) Compliance with the City's Shoreline Master Program does not constitute compliance with other federal, state, and local regulations and permit requirements that may apply. The applicant is responsible for complying with all other applicable requirements.

(2) When any provision of the City's Shoreline Master Program or any other federal, state, or local provision conflicts with the City's Shoreline Master Program, the provision that is most protective of shoreline resources shall prevail.

(3) The City's Shoreline Master Program includes critical areas regulations applicable only in shoreline jurisdiction (Appendix B); these regulations shall control within shoreline jurisdiction over the general critical area regulations adopted pursuant to the Growth Management Act.

1.5 Liberal construction

(1) As provided for in RCW 90.58.900, the Shoreline Management Act is exempted from the rule of strict construction. Therefore, the City's Shoreline Master Program shall be liberally construed to give full effect to the purposes and policies for which it was enacted.

1.6 Severability

(1) If any provision of the City's Shoreline Master Program, or its application to any person or legal entity or circumstances, is held invalid, the remainder of the City's Shoreline Master Program, or the application of the provision to other persons or legal entities or circumstances, shall not be affected.

1.7 Effective date

(1) The City's Shoreline Master Program is hereby adopted on July 13, 2016 (Ordinance No. 818). The City's Shoreline Master Program and all amendments thereto shall become effective 14 days from the date of Ecology's written notice of final approval action.

2 DEFINITIONS

(1) **"Agricultural activities"** means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal

conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

(2) **"Agricultural equipment"** includes, but is not limited to:

A. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

B. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

C. Farm residences and associated equipment, lands, and facilities; and

D. Roadside stands and on-farm markets for marketing fruit or vegetables.

(3) **"Agricultural facilities"** has the same meaning as "agricultural equipment."

(4) **"Agricultural land"** means those specific land areas on which agricultural activities are conducted as of the date of adoption of the City's Shoreline Master Program as evidenced by aerial photography or other documentation. After the effective date of the City's Shoreline Master Program, land converted to agricultural use is subject to compliance with its requirements.

(5) **"Agricultural products"** includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

(6) **"Amendment"** means a revision, update, addition, deletion, and/or reenactment to the City's Shoreline Master Program.

(7) **"Aquaculture"** means the culture or farming of fish or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

(8) **"Archaeology"** means systematic, scientific study of the human past through material remains.

(9) **"Archaeological object"** means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, graves, skeletal remains and technological by-products.

(10) **"Archaeological resource/site"** means a geographic locality in Washington, including, but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(11) **"Associated wetlands"** means those wetlands that are either in proximity to and either influence or are influenced by waters subject to the Shoreline Management Act.

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

(13) **"City"** means the City of McCleary.

(14) **"County"** means Grays Harbor County.

(15) **"Critical areas"** include the following areas and ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(16) **"Date of filing"** for locally approved conditional use or variance permits, and when the City simultaneously transmits its decision on a substantial development permit with its approval of either a shoreline conditional use permit or variance, or both, is the date Ecology transmits its decision to the City. For all other shoreline permit decisions, it is the date of actual receipt by Ecology of the City's final decision on the permit.

(17) **"Development"** means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act at any stage of water level.

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

(19) **"Ecological restoration"** has the same meaning as "restore."

(20) **"Ecology"** means the Washington State Department of Ecology.

(21) **"Ecosystem-wide processes"** means 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.

(22) **"Exempt"** developments are those set forth in WAC 173-27-040; RCW 90.58.030(3)(e); RCW 90.58.140(9); RCW 90.58.147; RCW 90.58.355; and RCW 90.58.515 that are not required to obtain a shoreline substantial development permit but which must otherwise comply with applicable provisions of the Shoreline Management Act and the City's Shoreline Master Program.

(23) **"Feasible''** means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions. In cases where the City's Shoreline Master Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

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.

(24) **"Fill"** means the addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

(25) **"Floodplain"** is synonymous with 100-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method that meets the objectives of the Shoreline Management Act.

(26) **"Floodway"** means the area that has been established in effective Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway does not

include 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.

(27) **"Forest practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. "Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(28) **"Geotechnical analysis"** has the same meaning as "geotechnical report."

(29) **"Geotechnical report"** means 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.

(30) **"Grading"** means 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.

(31) **"Guidelines"** means those standards adopted by Ecology to implement the policy of RCW 90.58 for regulation of use of the shorelines of the state.

(32) **"Hazard tree"** means a tree with a high probability of falling due to a debilitating disease, a structural defect, a root ball more than 50 percent exposed, or having been exposed to wind throw within the past ten years, and where there is a residence or residential accessory structure within a tree length of the base of the trunk, or where there is a risk to public safety or property. Where not immediately apparent to the review authority, the hazard tree determination shall be made after review of a report prepared by an arborist or forester.

(33) **"Height"** is measured from average grade level to the highest point of a structure, provided that television antennas, chimneys, and similar appurtenances shall not be used

in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, and that temporary construction equipment is excluded in this calculation.

(34) **"Historic preservation professional"** means those individuals who hold a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

A. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

B. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

(35) **"Historic site"** means those sites that are eligible or listed on the Washington Heritage Register, National Register of Historic Places or any locally developed historic registry formally adopted by the City Council.

(36) **"Institutional development"** means those public and/or private facilities having a primarily public-serving function, including, but not limited to, government offices, police and fire stations, libraries, activity centers, schools, health care facilities, educational and religious training centers, and water-oriented research facilities.

(37) **"May"** means the action is acceptable, provided it conforms to the provisions of the City's Shoreline Master Program.

(38) **"Must"** means a mandate; the action is required.

(39) **"Natural or existing topography"** means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

(40) **"Nonconforming use or development"** means a shoreline use or development that was lawfully constructed or established prior to the effective date of the City's Shoreline Master Program, or amendments thereto, but that does not conform to present regulations or standards of the City's Shoreline Master Program.

(41) **"Nonwater-oriented uses**" means those uses that are not water-dependent, water-related, or water-enjoyment.

(42) **"Ordinary high water mark"** on all lakes and streams is 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 any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(43) **"Person"** means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

(44) **"Priority habitat"** means a habitat type with unique or significant value to one or more species.

A. An area classified and mapped as priority habitat must have one or more of the following attributes: comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; refugia habitat; limited availability; high vulnerability to habitat alteration; or unique or dependent species.

B. 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). 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 snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

(45) **"Priority species"** means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

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 Washington State Department of Fish and Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

B. 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.

C. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish 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 federal Endangered Species Act as either proposed, threatened, or endangered.

(46) **"Professional archaeologist"** means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal Secretary of the Interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

(47) **"Provisions"** means policies, regulations, standards, or environment designations.

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

(49) **"Restoration"** has the same meaning as "restore."

(50) **"Restore"** means 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.

(51) **"Shall"** means a mandate; the action is required.

(52) **"Shorelands"** means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands associated with the waters that are subject to the provisions of the City's Shoreline Master Program.

(53) **"Shoreline areas"** means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(54) **"Shoreline conditional use"** means a use, development, or substantial development that is classified as a shoreline conditional use or is not classified within the City's Shoreline Master Program.

(55) **"Shoreline functions"** has the same meaning as "ecological functions."

(56) **"Shoreline jurisdiction"** has the same meaning as "shoreline areas."

(57) **"Shoreline modifications"** means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such

as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

(58) **"Shoreline permit"** means any shoreline substantial development permit, shoreline variance permit, shoreline conditional use permit, or revision authorized under RCW 90.58.

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

(60) **"Shoreline variance"** is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the City's Shoreline Master Program and not a means to vary a use of a shoreline.

(61) **"Shorelines"** means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except shorelines of statewide significance; shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

(62) **"Shorelines of the state"** are the total of all "shorelines" and "shorelines of statewide significance" within the state.

(63) **"Should"** means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act, the Guidelines, and the City's Shoreline Master Program against taking the action.

(64) **"Significant,"** only as used in archaeological, historic and cultural resource policies and regulations contained in the City's Shoreline Master Program, is that quality in American history, architecture, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of significant persons in our past; or

C. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded or may be likely to yield, information important in history or prehistory.

(65) **"Significant vegetation removal"** means 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.

(66) **"Structure"** means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

(67) **"Substantial development"** shall mean any development of which the total cost or fair market value exceeds $6,416, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold 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. See WAC 173-27-040 for a list of developments that shall not be considered substantial development.

(68) **"Substantially degrade"** means to cause significant ecological impact.

(69) **"Vessel"** includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

(70) **"Water-dependent use"** means a use or portion of a use that cannot exist in a location that is not adjacent to the water and that is dependent on the water by reason of the intrinsic nature of its operations.

(71) **"Water-enjoyment use"** means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use, or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(72) **"Water-oriented use"** means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(73) **"Water-related use"** means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

A. The use has a functional requirement for a waterfront location such as the need for large quantities of water; or

B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

(74) **"Wetlands"** means areas that are inundated or saturated by surface water or groundwater 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

3 SHORELINE JURISDICTION

3.1 Shoreline jurisdiction

(1) **Shorelines of the state.** In accordance with the Shoreline Management Act, the City's shoreline jurisdiction subject to the City's Shoreline Master Program includes all "shorelines of the state" and "shorelands." Shorelines of the state are the total of all "shorelines" and "shorelines of statewide significance." The City's shorelines include Wildcat Pond and Mox Chehalis Creek (although the creek itself is located outside the City, shorelands adjacent to the creek are within the City's shoreline jurisdiction); the City has no shorelines of statewide significance. The City's shoreline jurisdiction does not include the optional inclusion of the entire 100-year floodplain or land necessary for buffers for critical areas.

(2) **Where shoreline jurisdiction does not include an entire parcel.** In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to the City's Shoreline Master Program.

3.2 Official Shorelines Map

(1) **Official Shorelines Map.**

A. The City's shoreline jurisdiction and the environment designations established by the City's Shoreline Master Program are shown on the Official Shorelines Map. The Official Shorelines Map can be seen in Appendix A. The Official Shorelines Map is available at City Hall.

B. The Official Shorelines Map may be updated through an amendment to the City's Shoreline Master Program as indicated in regulation 3.2(2) below.

(2) **Official Shorelines Map approximate.** The Official Shorelines Map only approximately identifies or depicts the lateral extent of shoreline jurisdiction and environment designations from the shoreline waterbody. The actual lateral extent of shoreline jurisdiction and environment designations shall be determined on a site-specific basis at the time a development is proposed based on the location of the ordinary high water mark, floodway, floodplain, and the presence of associated wetlands.

A. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction related to site-specific surveys of ordinary high water mark, floodway, and/or floodplain are automatically assigned the category of the contiguous environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation.

B. Any areas within shoreline jurisdiction that are not mapped and/or designated shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with Section 8.13, Amendments.

C. Any area shown on the Official Shorelines Map as within shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of the City's Shoreline Master Program. In the event of a mapping error, the City shall rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

D. When interpreting the exact location of an environment designation boundary line, the location shown on the Official Shorelines Map shall prevail consistent with the following rules:

1. Boundaries indicated as approximately following parcel, tract, or section lines shall be so construed.

2. In cases of boundary line adjustments or subdivisions, the designation of the parent parcel shall not change as a result, except if pursuant to an amendment to the City's Shoreline Master Program.
3. Boundaries indicated as approximately following roads shall be construed to follow the nearest right-of-way edge.
4. Boundaries indicated as approximately parallel to or extensions of features indicated in regulations 3.2(2)D.1 through 3.2(2)D.3 above shall be so construed.

4 SHORELINE POLICIES

4.1 General policies

4.1.1 Archaeological, historic & cultural sites

(1) Shoreline features should be protected to prevent the destruction of, or damage to, any site having archaeological, historic, cultural, or scientific value through coordination and consultation with the appropriate local, state, tribal and federal authorities.

(2) Cooperation among public and private parties is to be encouraged in the identification, protection, and management of cultural resources.

A. Owners of property containing previously identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, affected tribes and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.

(3) As appropriate, such sites should be preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent. When and/or where appropriate, access to such sites should be made available to parties of interest. Access to such sites must be designed and managed in a manner that gives maximum protection to the resource.

4.1.2 Critical areas

(1) The existing ecological functions and ecosystem-wide processes of critical areas should be protected.

(2) Human uses and values that are compatible with the protection of the existing ecological functions and ecosystem-wide processes of critical areas, such as public access and

aesthetic values, should be promoted provided that impacts to ecological functions are first avoided, and any unavoidable impacts are mitigated.

4.1.3 Environmental protection

(1) The City's Shoreline Master Program should assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

(2) To assure no net loss of shoreline ecological functions, individual uses and developments should be required to mitigate environmental impacts not otherwise avoided or minimized by compliance with the City's Shoreline Master Program or other applicable regulations.

4.1.4 Flood hazard reduction

(1) When evaluating alternate flood control measures, the removal or relocation of structures in flood-prone areas should be considered.

(2) Where feasible, preference should be given to non-structural flood hazard reduction measures over structural measures.

(3) Stream processes should be returned to a more natural state where feasible and appropriate, including the restoration of off-channel hydrological connections.

(4) Flood hazard protection measures should not result in a net loss of ecological functions and ecosystem-wide processes associated with streams.

4.1.5 Public access

(1) The public interest with regard to rights to access waters held in public trust by the state should be promoted and enhanced, while protecting private property rights and public safety.

(2) Space necessary for water-dependent uses should be protected.

(3) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, should be protected.

(4) The design, construction, and operation of permitted uses in shorelines of the state should be regulated to minimize, insofar as practical, interference with the public's use of the water.

4.1.6 Vegetation conservation

(1) Vegetation conservation should be undertaken to protect the ecological functions and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase

the stability of shorelines, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses.

4.1.7 Water quality & quantity

(1) Impacts to water quality and quantity that would result in a net loss of shoreline ecological functions or in a significant impact to aesthetic qualities or recreational opportunities should be prevented.

4.2 Shoreline use, development & modification policies

4.2.1 General shoreline use, development & modification policies

(1) The development of property in shoreline jurisdiction should protect the public's health, safety, and welfare; the land and its vegetation and wildlife; and property rights while implementing the policies of the Shoreline Management Act.

(2) The City, when determining allowable uses and resolving use conflicts on shorelines within jurisdiction, shall apply the following preferences and priorities in the order listed below.

A. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

B. Reserve shoreline areas for water-dependent and associated water-related uses.

C. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

D. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

E. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

(3) Use conflicts should be reduced by prohibiting or applying special conditions to uses that are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the City's shoreline.

(4) Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed should be allowed.

(5) The adverse effects of shoreline modifications should be reduced and, as much as possible, shoreline modifications should be limited in number and extent.

(6) Shoreline modifications, individually and cumulatively, should not result in a net loss of ecological functions. This should be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

(7) Structural shoreline modifications should be allowed only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(8) The enhancement of impaired ecological functions should be planned for where feasible and appropriate, while accommodating permitted uses.

4.2.2 Agriculture

(1) New agricultural activities on land not meeting the definition of agricultural land, the conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities should be consistent with the environment designation and the general and specific use regulations applicable to the proposed use, and should assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values.

4.2.3 Aquaculture

(1) Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. While aquaculture is not anticipated within the City's shoreline jurisdiction, some scale or form of aquaculture could be appropriate.

4.2.4 Boating facilities

(1) Boating facilities should meet health, safety, and welfare requirements, and no net loss of ecological functions as a result of development of such facilities should be assured.

4.2.5 Breakwaters, jetties & groins

(1) Breakwaters, jetties and groins should be prohibited in shoreline jurisdiction.

4.2.6 Commercial development

(1) Commercial development should be prohibited in shoreline jurisdiction, consistent with City zoning.

4.2.7 Dredging & dredge material disposal

(1) Dredging and dredge material disposal should be done in a manner that avoids, minimizes or mitigates significant ecological impacts.

(2) Dredging and dredge material disposal should be consistent with adopted regional interagency dredge material management plans and watershed management plans.

(3) Uses of suitable dredge material that benefit shoreline resources are encouraged.

4.2.8 Fill & grading

(1) Fills and grading should be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

(2) Fills waterward of the ordinary high water mark should be allowed in limited instances only.

4.2.9 Forest practices

(1) The City's Shoreline Master Program should rely on the Forest Practices Act and implementing rules, as well as the Forest and Fish Report, as adequate management of commercial forest uses within shoreline jurisdiction.

4.2.10 Industrial development

(1) Industrial development should be prohibited in shoreline jurisdiction, consistent with City zoning.

4.2.11 Institutional development

(1) Institutional uses should be allowed on the shoreline if the institutional use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration.

4.2.12 Mining

(1) Mining should be prohibited in shoreline jurisdiction, consistent with City zoning.

4.2.13 Recreational development

(1) Shoreline recreational development should be given priority and should be primarily related to access to, enjoyment of, and use of shorelines of the state.

(2) State-owned shorelines should be given appropriate special consideration for providing recreational activities for the public.

4.2.14 Residential development

(1) Single-family residences are a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

4.2.15 Shoreline habitat & natural systems enhancement projects

(1) Shoreline habitat and natural system enhancement projects should be fostered.

(2) Shoreline habitat and natural system enhancement projects should address legitimate restoration needs and priorities and facilitate implementation of the City's approved Shoreline Restoration Plan.

4.2.16 Shoreline stabilization

(1) The City should regulate shoreline stabilization in order to avoid the individual and cumulative net loss of ecological functions.

4.2.17 Transportation & parking

(1) Safe, reasonable, and adequate circulation systems should be provided to, through or over shorelines where necessary and otherwise consistent with the City's Shoreline Master Program.

(2) Circulation systems should include systems for pedestrian, bicycle, and public transportation where appropriate.

4.2.18 Utilities

(1) All utility facilities should be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

(2) Shoreline uses should not be allowed where the City's comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Existing utility services routed through shoreline areas should not be the sole justification for more intense development.

5 ENVIRONMENT DESIGNATIONS

5.1 Urban Conservancy

5.1.1 Purpose

(1) The purpose of the Urban Conservancy environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

5.1.2 Designation

(1) An Urban Conservancy environment designation is assigned to shoreline areas that are appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

A. They are suitable for water-related or water-enjoyment uses;

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

C. They have potential for ecological restoration;

D. They retain important ecological functions, even though partially developed; or

E. They have the potential for development that is compatible with ecological restoration.

5.1.3 Management policies

(1) Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

(2) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(3) Water-oriented uses should be given priority over nonwater-oriented uses.

5.2 Shoreline Residential

5.2.1 Purpose

(1) The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the City's Shoreline Master Program. An additional purpose is to provide appropriate public access and recreational uses.

5.2.2 Designation

(1) A Shoreline Residential environment designation is assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.

5.2.3 Management policies

(1) Development in the Shoreline Residential designation should assure no net loss of shoreline ecological functions through the application of development standards.

(2) Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

5.3 Aquatic

5.3.1 Purpose

(1) The purpose of the Aquatic environment is to protect, restore, and manage the unique characteristics and resources of areas waterward of the ordinary high water mark.

5.3.2 Designation

(1) An Aquatic environment designation is assigned to lands waterward of the ordinary high water mark.

5.3.3 Management policies

(1) New over-water structures should only be allowed for water-dependent uses, public access, or ecological restoration.

(2) The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.

(3) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of overwater facilities should be encouraged.

(4) Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in regulation 6.3(3) as necessary to assure no net loss of ecological functions.

(5) Shoreline uses, developments and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

6 GENERAL REGULATIONS

6.1 Archaeological, historic & cultural resources

(1) **Known historic, cultural or archaeological sites.**

A. The City shall work with tribal, state, federal, and local governments and special districts as appropriate to be aware of all known significant local historic, cultural and archaeological sites while adhering to applicable state and federal laws protecting such information from public disclosure.

B. Upon receipt of application for a shoreline permit or application for a demolition permit within the shoreline zone, 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 survey/assessment. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of historic or significant archaeological resources. Buildings or structures over 40 years in age shall be inventoried in a Washington State Department of Archaeology and Historic Preservation Historic Property Inventory Database entry and archaeological sites shall be recorded on Archaeological Site Inventory Forms. The fee for the services of the professional archaeologist or historic preservationist shall be paid by the applicant.

1. If the cultural resource site assessment identifies the presence of archaeological, or significant historic, cultural resources , recommendations shall be prepared by a professional archaeologist or historic preservation professional, as part of the survey/assessment. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation and affected tribes. Comments received shall be incorporated into

the conclusions and recommended conditions of the survey/assessment to the maximum extent practicable.

C. A cultural resources survey/assessment shall contain the following minimum elements:

1. The purpose of the project; a site plan for proposed on-site development; including indication of any existing building or structures on-site as well as any that are proposed for removal; depth and location of all ground-disturbing activities including, but not limited to, utilities, paved areas, clearing and grading, landscaping or new landscape features (i.e. fencing, walls, etc.); an examination of project on-site design alternatives; and an explanation of why the proposed activity requires a location on, or access across and/or through, an historic or archaeological resource; and

2. A description of the historic/archaeological resources present, including any building or structure over 40 years of age affected by the proposal; and

3. An analysis of the significance of the historic resource and an analysis of the potential adverse impacts as a result of the activity;

4. An analysis of how these impacts will be/have been avoided; or

5. A recommendation of appropriate mitigation measures if the resources cannot be avoided (some mitigation measures may require a permit from Washington State Department of Archaeology and Historic Preservation). In the case of archaeological resources, mitigation measures may include but are not limited to the following:

   i. Recording the site with the Washington State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the City Council;

   ii. Adaptive re-use of buildings or structures according to the U.S. Secretary of the Interior's Standards for Rehabilitation;

   iii. Preservation in place;

   iv. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g. maintained grass or pavement);

   v. Excavation and recovery of archaeological resources;

   vi. Inventorying prior to covering of archaeological resources with structures or development; and

   vii. Archaeological monitoring of construction excavation.

D. The Public Works Director shall consult with the Washington State Department of Archaeology and Historic Preservation and affected tribes prior to approval and acceptance of the survey/assessment.

1. Based upon such consultation, the Public Works Director may reject or request revision of the conclusions reached in a survey/assessment when the administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

E. Within 14 days of receipt of a complete application for a shoreline permit or shoreline exemption in an area of known historic/archaeological resources, the City shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation and affected tribes. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:

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

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

3. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;

4. 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 by the City;

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

6. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

7. Any other information determined appropriate by the City;

8. A statement of the limits of the comment period, the right of each agency to comment on the application within a 30-day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. In addition, the statement shall indicate that any agency wishing to receive personal notice of any hearings must notify

the hearing examiner's office within 30 days of the date of the notice of application.

F. In granting shoreline permits or statements of exemption for such development, the City may attach conditions to require consultation with the Washington State Department of Archaeology and Historic Preservation and affected tribes, and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provisions for the protection and preservation of historic/archaeological sites, structures or areas shall be incorporated to the maximum extent practicable.

(2) **Inadvertent discovery.**

A. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Public Works Director.

B. The Public Works Director shall then notify the Washington State Department of Archaeology and Historic Preservation, affected tribes and other appropriate agencies and shall require that an immediate site assessment be conducted by a professional archaeologist or historic preservation professional, as applicable, pursuant to regulation 6.1(1) to the extent of damage to the resource. The site assessment shall be distributed to the Washington State Department of Archaeology and Historic Preservation, and affected tribes for a 15-day review period. If the above-listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

C. If human remains are encountered, all activity must cease and the area must be protected and the find reported to local law enforcement and the County coroner or medical examiner.

(3) **Public access.**

A. If a private or publicly owned building or structure of historic significance is identified, public access shall be encouraged as appropriate for purposes of public education; provided that:

1. The type and/or level of public access is consistent with the long-term protection of both historic resource values and shoreline ecological functions; and

2. An access management plan is developed in accordance with site- and resource-specific conditions in consultation with the Washington State Department of Archaeology and Historic Preservation, affected tribes and/or other agencies, as appropriate, to address the following: hours of operation; entrance fees and/or permits; interpretive and/or directional signage; lighting; pedestrian and handicap access; and/or traffic and parking.

B. For archaeological and cultural resource sites, the Washington State Department of Archaeology and Historic Preservation, affected tribes and/or other agencies, as appropriate, shall be in agreement prior to providing public access to a site. An access and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation and affected tribes.

6.2 Critical areas

(1) **Applicability.** Critical areas include the following areas and ecosystems: wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

(2) **Critical areas within shoreline jurisdiction.** Critical areas within shoreline jurisdiction are regulated by the regulations contained in Appendix B of the City's Shoreline Master Program. Although the regulations in Appendix B are nearly identical to the City's general critical areas regulations, key differences exist. If there are conflicts between the regulations contained in Appendix B and the regulations contained in the rest of the City's Shoreline Master Program, those that are the most protective of shoreline ecological functions shall apply.

6.3 Environmental protection

(1) **No net loss of ecological functions.** Individual uses and developments shall not result in a net loss of shoreline ecological functions. Individual uses and developments are required to follow the mitigation sequence and mitigate environmental impacts not otherwise avoided or minimized by compliance with the City's Shoreline Master Program or other applicable regulations.

(2) **Mitigation sequence analysis, when required.** If a proposed shoreline use or modification is entirely addressed by specific, objective standards (such as setback distances or materials requirements) contained in the City's Shoreline Master Program, then the mitigation sequence analysis described in regulation 6.3(3) is not required. In the following circumstances, a project applicant must provide a mitigation sequence analysis as described in regulation 6.3(3):

A. If a proposed shoreline use or modification is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in the City's shoreline regulations, then the mitigation sequence analysis is required for the discretionary standard(s).

B. When an action requires a shoreline conditional use permit or shoreline variance permit.

C. When specifically required by a provision in the City's Shoreline Master Program.

(3) **Mitigation sequence analysis.** An applicant required to complete a mitigation sequence analysis pursuant to regulation 6.3(2) must describe how the proposal will follow the below mitigation sequence. Application of the mitigation sequence must achieve no net loss of ecological functions for each new development and not have a significant adverse impact on other shoreline functions fostered by the policy of the Shoreline Management Act. Mitigation measures are listed in descending order of priority. Lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required, but may be voluntarily performed.

A. Avoid the impact altogether by not taking a certain action or parts of an action;

B. Minimize 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. Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reduce or eliminate the impact over time by preservation and maintenance operations;

E. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

F. Monitor the impact and the compensation projects and taking appropriate corrective measures.

(4) **Compensatory mitigation.** When compensatory measures are appropriate pursuant to the mitigation sequence analysis described in regulation 6.3(3):

A. Preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized.

B. Compensatory mitigation measures must be maintained over the life of the use or development.

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

(5) **Mitigation plan.** When compensatory measures are appropriate, the applicant must develop and implement a mitigation plan prepared by a qualified professional. A mitigation plan must include, at a minimum:

A. A description of the existing shoreline environment.

B. A description of anticipated impacts.

C. A description of how the mitigation plan addresses anticipated impacts, with supporting rationale.

D. Drawings showing existing and proposed conditions.

E. Measurable performance standards for evaluating the success of the mitigation plan.

F. A contingency plan identifying potential courses of action if performance standards are not being met.

G. A five-year maintenance and monitoring program, including:

1. A schedule for maintenance and monitoring.

2. A schedule for the submission of monitoring reports to the City to document milestones, successes, problems, and contingency actions.

3. A discussion of how monitoring data will be evaluated to determine if performance standards are being met.

H. Financial guarantees to ensure the mitigation plan is fully implemented.

6.4 Flood hazard reduction

(1) **Applicability.** Flood hazard reduction provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

(2) **Development in floodplains.** Development in floodplains must not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard

management plan adopted pursuant to RCW 86.12 (provided the plan has been adopted after 1994 and approved by Ecology).

(3) **New development or uses, including subdivisions.** New development or uses in shoreline jurisdiction, including the subdivision of land, must not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the floodway during the life of the development or use.

(4) **Uses and activities within the floodway.** The following uses and activities may be authorized where appropriate and/or necessary within the floodway:

A. Actions that protect or restore the ecosystem-wide processes or ecological functions, including development with a primary purpose of protecting or restoring ecological functions and/or ecosystem-wide processes.

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

C. Existing and ongoing agricultural practices.

D. Bridges, utility lines, outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of the watershed.

E. Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

F. Modifications or additions to an existing nonagricultural legal use, provided that the new development includes appropriate protection of ecological functions.

G. Development where structures exist that prevent flooding.

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

(5) **Structural flood hazard reduction measures.**

A. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by Ecology that evaluates cumulative impacts to the watershed system.

B. New structural flood hazard reduction measures in shoreline jurisdiction may be allowed only when demonstrated by a scientific and engineering analysis that they are necessary to protect existing development and that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions will be undertaken consistent with Section 6.6, Vegetation conservation.

C. New structural flood hazard reduction measures must be placed landward of associated wetlands and applicable shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized only if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements must be documented through a geotechnical and hydrological analysis.

D. New structural public flood hazard reduction measures, such as dikes and levees, must dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(6) **Removal of gravel for flood management purposes.** The removal of gravel for flood management purposes must be consistent with an adopted flood hazard reduction plan and the City's Shoreline Master Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

6.5 Public access

(1) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

(2) **Conditions when public access required for private entities.** Except as provided in regulation 6.5(3), shoreline substantial developments or conditional uses shall provide public access where any of the following conditions are present:

A. A development or use will create increased demand for public access to the shoreline.

B. A development or use will interfere with an existing public access way. Such interference may be caused by blocking access or by discouraging use of existing on-site or nearby access.

C. New non-water-oriented uses are proposed.

D. A use or activity will interfere with public use of lands or waters subject to the public trust doctrine.

E. Where a commercial or industrial use is proposed for location on land in public ownership.

(3) **When on-site public access not required for private entities.** On-site public access shall not be required for private entities where one or more of the following conditions apply. Where one or more of the following conditions apply, the City may require the applicant to build off-site public access facilities or, if established and approved by the Public Works Director, contribute to the local public access fund.

A. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means.

B. Constitutional or other legal limitations may apply.

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

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

E. Adverse impacts to shoreline ecological processes and functions that cannot be mitigated will result from the public access.

F. Significant unavoidable conflict between any access regulations and the proposed use and adjacent uses would occur and cannot be mitigated.

(4) **When public access required for public entities.** Shoreline development by public entities, state agencies, and public utility districts shall include public access measures as part of each shoreline development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

(5) **When public access required for residential development.** New multiunit residential development, including the subdivision of land for more than four parcels, shall provide community and/or public access. Public access shall not be required for single-family residential development of four or fewer lots. Public access shall also not be required if the new multiunit residential development, including the subdivision of land for more than four parcels, is separated from the shoreline by a legally established public road.

(6) **On-site public access.** On-site public access, if required, shall meet the following criteria:

A. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, or other area serving as a means of view and/or physical approach to public waters.

B. Public access provisions shall run with the land and be recorded via a legal instrument such as an easement. Such legal instruments shall be recorded with the Grays Harbor County Auditor prior to the time of building permit approval, occupancy or plat approval, whichever comes first (RCW 58.17.110). Future actions by the applicant's successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

C. Minimum width of public access easements shall be at least 12 feet, unless the Public Works Director determines that undue hardship to the proponent would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

D. Public access shall be connected to the nearest public street.

E. Appropriate amenities sufficient to serve users, such as benches and picnic tables, shall be provided.

F. Public access sites shall be developed in accordance with the Americans with Disabilities Act.

G. The standard state-approved logo or other City-approved signs that indicate the public's right of access and hours of access shall be constructed, installed, and maintained by the applicant or owner in conspicuous locations.

H. Required public access sites shall be fully developed and available for public use at the time of occupancy of the shoreline development.

I. Maintenance of the public access facility over the life of the use or development shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement recorded with the Grays Harbor County Auditor.

J. Public access improvements shall be constructed and maintained in a manner that does not result in a net loss of shoreline ecological functions.

6.6 Vegetation conservation

(1) **Applicability.** Vegetation conservation includes activities to protect vegetation along or near shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions apply throughout shoreline jurisdiction. Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington

State Forest Practices Act, except for conversion to other uses and other forest practice activities over which the City has authority.

(2) **Existing vegetation.** Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with such uses and developments may be maintained.

(3) **Shoreline buffers and building setbacks.** Requirements for shoreline buffers and setbacks are identified in Appendix B in Table B6-1.

A. Where a legally established road crosses a shoreline or critical area buffer, the Public Works Director may approve a modification of the minimum required buffer width to the waterward edge of the improved road. If the improved roadway corridor is wider than 20 feet, a study is not required. For roadway corridors less than 20 feet wide, a study must be submitted by the applicant and prepared by a qualified professional that demonstrates that the part of the buffer on the upland side of the road sought to be reduced:

1. Does not provide additional protection of the shoreline waterbody; and

2. Provides insignificant biological, geological or hydrological buffer functions relating to the waterward portion of the buffer adjacent to the shoreline waterbody.

(4) **Vegetation removal.**

A. Vegetation removal must be limited to the minimum necessary to accommodate approved shoreline development. Mitigation sequencing per regulation 6.3(3) must be applied unless specifically excluded by other shoreline provisions, so that the design and location of the structure or development minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum vegetation retention.

B. Where vegetation removal conducted consistent with this section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a mitigation plan unless specifically excluded by other shoreline provisions. Examples of actions that may result in adverse impacts include:

1. Removal of native trees, shrubs or groundcovers;

2. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or

3. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

(5) **Pruning.** Nondestructive thinning of lateral branches to enhance views or trimming, shaping, thinning or pruning of a tree necessary to its health and growth is allowed, consistent with the following standards:

1. In no circumstance shall removal of more than one-fourth of the original crown be permitted.
2. Pruning shall not include topping, stripping of branches or creation of an imbalanced canopy.
3. Pruning shall retain branches that overhang the water to the maximum extent feasible.
4. Pruning must not compromise the health of the tree.
5. Selective pruning of trees for views shall not include removal of understory vegetation.

(6) **Hazard trees.** Hazard trees may be removed if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function. Hazard tree removal may be mitigated without a mitigation plan by conversion of the hazard tree to a wildlife snag or the installation of a similar tree. Native tree removal in shoreline jurisdiction must be mitigated by the installation of a similar native tree at a 1:2 impact to mitigation ratio. Non-native tree removal in shoreline buffers must be mitigated by installation of a native or suitable non-native tree at a 1:2 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas.

(7) **Noxious weeds.** Hand removal or spot spraying of noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is allowed.

(8) **Aquatic weed control.** Aquatic weed control may only occur to address adverse impacts to native plant communities, fish and wildlife habitats, or existing water-dependent uses. Aquatic weed control shall occur in compliance with applicable laws and standards. Removal using mechanical methods is preferred over chemical methods.

(9) **Mitigation plans for vegetation removal.** Mitigation plans for vegetation removal must be prepared by a qualified professional and must contain information required in regulation 6.3(5). In addition, such mitigation plans must include the following standards, as applicable.

A. Performance standards shall require 100 percent survival in year 1, with 100 percent tree survival and 80 percent shrub and groundcover survival at the end of the monitoring period.

B. Tree removal in shoreline jurisdiction must be mitigated by installation of a similar native tree at a 1:2 impact to mitigation ratio. Non-native tree removal in shoreline buffers must be mitigated by installation of a native or suitable non-native tree at a 1:2 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas.

6.7 Water quality & quantity

(1) **Applicability.** Water quality and quantity provisions apply to all development and uses in shoreline jurisdiction that could adversely affect water quality and quantity.

(2) **Prevent impacts.** The design, construction and operation of shoreline uses and developments shall incorporate measures, including but not limited to best management practices, to prevent impacts to surface water and groundwater quality and quantity that would result in a net loss of shoreline ecological functions or in a significant impact to aesthetic qualities or recreational opportunities.

(3) **Stormwater management structures.** Stormwater management structures, including but not limited to ponds, basins, and vaults, shall be located outside of shoreline jurisdiction where possible, as far from the ordinary high water mark as feasible, and shall minimize disturbance of vegetation conservation buffers.

(4) **Materials.** All materials that may come in contact with water shall be constructed of materials, such as untreated or approved treated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals.

(5) **Chemicals**. Pesticides, herbicides, and fertilizers must be applied in a manner that minimizes direct or indirect entrance into nearby waters. The usage of chemicals in water must be in accordance with all applicable agency standards.

7 SHORELINE USE, DEVELOPMENT & MODIFICATION REGULATIONS

7.1 General shoreline use, development & modification regulations

(1) **Applicability.** The regulations in this section apply to all shoreline uses, development and modifications.

(2) **Shoreline use, development and modification matrix.** Table 7-1 indicates shoreline uses, developments and modifications that may be allowed or are prohibited in shoreline

jurisdiction within each environment designation. Shoreline uses, developments and modifications are classified in the matrix as indicated below. Uses, developments and modifications that may be allowed according to the matrix must in all cases be consistent with all other applicable parts of the City's Shoreline Master Program in order to be authorized by the City.

A. Uses, developments and modifications that may be allowed by a shoreline substantial development permit or exemption are indicated by a "P" on the matrix.

B. Uses, developments and modifications that may be allowed by a shoreline conditional use permit are indicated by a "C" on the matrix.

C. Uses, developments and modifications that are not allowed are indicated by an "X" on the matrix.

D. Uses, developments and modifications that are not applicable to an environment designation are indicated by an "NA" on the matrix.

Table 7-1. Shoreline use, development, & modification matrix

Shoreline Use/Development/Modification	Shoreline Residential	Urban Conservancy	Aquatic
Agriculture	X	P	NA
Aquaculture	X	X	C
Boating facilities			
Public access	NA	P	P
Other	NA	X	X
Breakwaters, jetties, groins	X	X	X
Commercial development	X	X	X
Dredging & dredge material disposal			
Dredging or dredge material disposal for habitat restoration	P	P	P
Dredging for water-dependent uses	NA	NA	P
Other dredging and dredge material disposal	C	C	C
Fill & grading	P	P	C[1]
Flood hazard reduction measures	C	C	C
Forest practices	X	P	NA
Industrial development	X	X	X
Institutional development	P	P	X
Mining	X	X	X
Recreational development			

Shoreline Use/Development/Modification	Shoreline Residential	Urban Conservancy	Aquatic
Water-oriented	P	P	P
Nonwater-oriented	P	C	X
Residential development	P	X	X
Shoreline habitat & natural systems enhancement projects	P	P	P
Shoreline stabilization			
New hard	C	C	C
New soft	P	P	P
Repair and replacement	P	P	P
Transportation & parking			
New and expanded accessory roads serving allowed uses	P	P	X
New and expanded non-accessory roads (e.g. local roads, arterials, etc)	C	C	X
Parking accessory to an allowed use	P	P	X
Stand-alone parking	X	X	X
Utilities			
Production and processing facilities	C	C	C
Transmission facilities	P	P	C
Accessory utilities	Reviewed as part of primary use		
[1] Fills waterward of the ordinary high water mark for ecological restoration are coded "P."			

(3) **Unlisted uses.** Any new uses or modifications not explicitly listed or comparable to those included in Table 7-1 shall be reviewed through a shoreline conditional use permit.

(4) **Height limitation.**

A. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level, except if approved through a shoreline variance permit.

B. To exceed 35 feet, an applicant must apply for a shoreline variance permit, and comply with the following criteria in addition to the shoreline variance permit criteria:

1. Overriding considerations of the public interest will be served.

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

7.2 Agriculture

(1) **Applicability.** Agriculture provisions apply to new agricultural activities on land not meeting the definition of agricultural land, the conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities. The City's Shoreline Master Program does not require modification of or limit agricultural activities occurring on agricultural lands.

(2) **New agricultural activities.** New agricultural activities are activities that meet the definition of agricultural activities, but are proposed on land not currently in agricultural use. New agricultural activities must assure that uses and developments in support of agricultural uses are:

A. Consistent with the environment designation in which the land is located.

B. Located and designed to assure no net loss of ecological functions and to not have a significant adverse impact on other shoreline resources and values.

(3) **Best management practices.** New agricultural activities and agricultural facilities shall employ applicable best management practices established by the U.S. Department of Agriculture Natural Resources Conservation Service or by similar agencies.

(4) **Nonagricultural development and conversion to nonagricultural uses.** Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses shall be consistent with the environment designation and the general and specific use regulations applicable to the proposed use, and shall not result in a net loss of ecological functions associated with the shoreline.

7.3 Aquaculture

(1) **Where allowed.** Aquaculture is allowed as a conditional use in the Aquatic environment where it can be located, designed, constructed, and managed to avoid all of the following: reducing shoreline ecological functions, spreading diseases to native aquatic life, and significantly conflicting with public access.

(2) **Best management practices.** Aquaculture facilities must identify and use best management practices to minimize impacts such as light and noise from the construction and management of the facilities.

(3) **New aquatic species.** New aquatic species that have not been previously cultivated in Washington State shall not be introduced into City waters without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington State Department of Health.

(4) **Wastes.** Aquaculture wastes shall be disposed of in a manner compliant with all applicable governmental waste disposal standards. No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.

(5) **Rights of treaty tribes.** The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the project proponent and the affected tribe(s) through the permit review process.

7.4 Boating facilities

(1) **Applicability.** Boating facilities provisions apply to over- and in-water facilities that facilitate public access as their primary purpose, including launching or mooring small watercraft. Facilities covered include piers/docks and boat launches.

(2) **New boating facilities, when allowed.** New boating facilities shall be allowed only for public access.

(3) **Location, design, and construction.**

A. Boating facilities, including associated and accessory uses, shall be located, designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources and processes, and public access.

B. Boating facility construction shall be restricted to the minimum size necessary to meet the needs of the proposed public access use.

C. Boat launches shall be designed and constructed using methods and technologies that have been recognized and approved by state and federal resource agencies as the best currently available, with consideration of site-specific conditions.

D. Structures shall be made of materials that:

1. Have been approved by applicable state agencies.

2. Have a generally non-reflective exterior finish to reduce glare.

7.5 Breakwaters, jetties & groins

(1) **Prohibited.** Breakwaters, jetties and groins are prohibited in shoreline jurisdiction.

7.6 Commercial development

(1) **Prohibited.** Commercial development is prohibited in shoreline jurisdiction, consistent with City zoning.

7.7 Dredging & dredge material disposal

(1) **Applicability.** As regulated by the City's Shoreline Master Program, dredging is the removal of bed material from below the ordinary high water mark or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in regulation 7.7(3) below. Dredging and dredge material disposal provisions are not intended to cover other removals of bed material waterward of the ordinary high water mark or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings). Such in-water substrate modifications should be conducted pursuant to applicable general and specific use, development and modification regulations of the City's Shoreline Master Program.

(2) **New development.** New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

(3) **Dredging, when allowed.** Dredging may be allowed for the following purposes when significant ecological impacts are minimized and mitigation is provided:

A. Development, expansion and maintenance of essential public facilities when there are no feasible alternatives.

B. Reduction of flood hazards when consistent with an approved flood hazard management plan.

C. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.

(4) **Dredging for fill material.**

A. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions.

B When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must be associated with either a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project.

(5) **Dredge material disposal, when allowed.** Dredge material disposal, both upland and in-water, may be approved, provided:

A. The dredge material disposal complies with at least one of the following:

1. The dredge material disposal has been evaluated by the Dredge Management Material Program; or

2. The dredge material disposal is consistent with the guidance from the U.S. Army Corps of Engineers/Environmental Protection Agency publication, *Identifying, Planning, and Financing Beneficial Use Projects Using Dredged Material – Beneficial Use Planning Manual* (EPA842-B-07-001, October 2007, or as amended).

B. A qualified professional demonstrates that the dredge material disposal will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, or shoreline public access.

(6) **Avoid, minimize, and mitigate.** Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts, and impacts that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

A. Dredging shall be confined to the minimum area necessary to accomplish the intended purpose or use.

B. Dredging and dredge disposal shall be scheduled to minimize impacts to biological productivity and to minimize interference with fishing activities and other water-dependent uses.

(7) **Agency approvals.** Dredging and dredge material disposal must be approved by all state and federal agencies with jurisdiction. Copies of all such approvals must be provided to the City.

7.8 Fill & grading

(1) **When fills and grading allowed, upland.** Upland fills and grading may be allowed provided they are:

A. Part of an allowed shoreline use or modification.

B. Located outside applicable buffers, unless specifically allowed.

(2) **When allowed, waterward of the ordinary high water mark.** Fills waterward of the ordinary high water mark shall be allowed only when necessary to support:

A. A water-dependent or public access use.

B. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

C. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program.

D. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible.

E. A mitigation, environmental restoration, beach nourishment or enhancement project.

(3) **Protection of shoreline ecological functions.** Fills and grading shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes.

(4) **Design.** All fills and grading, except when for the purpose of shoreline restoration, must be designed:

A. To be the minimum size necessary to implement the allowed use or modification.

B. To fit the topography so that minimum alterations of natural conditions will be necessary.

C. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

(5) **Fill material.** Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

(6) **Temporary erosion and sediment control plan.** A temporary erosion and sediment control plan, including best management practices, shall be provided for all proposed fill and grading activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

(7) **Excavation below the ordinary high water mark or in wetlands.** Excavation below the ordinary high water mark or in wetlands using other than unpowered, hand-held tools, except removals of bed material that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline stabilization measure), shall be considered dredging and be subject to the regulations in Section 7.7, Dredging and dredge material disposal.

7.9 Forest practices

(1) **Applicability.** This section shall apply to Class IV-general forest practices where shorelines are being converted or are expected to be converted to non-forest uses. Other forest practice activities are subject to the Forest Practices Act and implementing rules.

(2) **Conversion.** Forest practice conversions and other Class IV-general forest practices where there is a likelihood of conversion to nonforest uses shall assure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and

values such as recreation and public access. In such cases, requirements for shoreline buffers and setbacks shall apply.

7.10 Industrial development

(1) **Prohibited.** Industrial development is prohibited in shoreline jurisdiction, consistent with City zoning.

7.11 Institutional development

(1) **When allowed.** Institutional uses may be allowed on the shoreline if:

A. The institutional use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and/or ecological restoration; or

B. If the site is physically separated from the shoreline by another property or public right-of-way.

(2) **No net loss of ecological functions or significant adverse impacts.** Institutional development must not result in a net loss of shoreline ecological functions or have significant adverse impacts to other shoreline uses, resources and values such as recreation and public access.

(3) **Public access.** Institutional development shall provide public access if required by Section 6.5, Public access.

7.12 Mining

(1) **Prohibited.** Mining is prohibited in shoreline jurisdiction, consistent with City zoning.

7.13 Recreational development

(1) **Applicability.** Recreational development addresses commercial and public facilities designed and used to provide recreational opportunities to the public.

(2) **Features.** Recreational uses and facilities located within shoreline jurisdiction shall include features related to access to, enjoyment of, and use of shorelines of the state.

(3) **Consistency with environment designation and no net loss.** Recreational developments shall be located, designed, and operated in a manner consistent with the purpose of the environment designation in which they are located and such that no net loss of shoreline ecological functions or ecosystem-wide processes results.

7.14 Residential development

(1) **Applicability.** Residential development consists of single-family and multifamily development, including the creation of new residential lots through land division.

(2) **Land division.** The creation of new residential lots through land division must:

A. Be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

B. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements, or a net loss of shoreline ecological functions.

(3) **Access, utilities, and public services.** Access, utilities, and public services must be available and adequate to serve the development.

(4) **Set back from steep slopes and shorelines vulnerable to erosion.** Residential development, including appurtenant structures and uses, shall be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements are not required to protect such structures and uses during the life of the development.

(5) **Public access.** Residential development shall provide public access if required by regulation 6.5(5).

(6) **New over-water residences.** New over-water residences, including floating homes, are prohibited.

(7) **No net loss of shoreline ecological functions.** No net loss of shoreline ecological functions shall result from residential development.

7.15 Shoreline habitat & natural systems enhancement projects

(1) **Applicability.** Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Shoreline habitat and natural systems enhancement projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

(2) **Approved plan.** Shoreline habitat and natural system enhancement projects must be carried out in accordance with an approved shoreline restoration planning document,

including, but not limited to, the Shoreline Restoration Plan prepared as part of the City's Shoreline Master Program.

(3) **Scientific and technical information and best management practices.** Shoreline restoration and enhancement projects shall be designed using the most current, accurate, and complete scientific and technical information available, and implemented using best management practices.

(4) **Other shoreline uses, resources and values.** Shoreline habitat and natural systems must not result in substantial interference with other shoreline uses, resources and values such as recreation and public access.

(5) **Maintenance and monitoring.** Long-term maintenance and monitoring (minimum of three years) shall be arranged by the project applicant and included in shoreline habitat and natural system enhancement project proposals.

(6) **Relief from shift in the ordinary high water mark.** When a shoreline habitat and natural systems enhancement project causes or would cause a landward shift in the ordinary high water mark resulting in a hardship, affected property owners are advised to consult with the City to assess whether and how relief may be granted relief under RCW 90.58.580.

7.16 Shoreline stabilization

(1) **Subdivision.** Subdivision of land must be based on a geotechnical report prepared in accordance with regulation 7.16(6) to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur.

(2) **New development.**

A. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

B. New development on steep slopes shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical report prepared in accordance with regulation 7.16(6).

C. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

(3) **New or enlarged structural stabilization measures, when allowed.** New or enlarged structural stabilization measures shall not be allowed except as follows.

A. To protect existing primary structures, when all of the conditions below apply.

1. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared in accordance with regulation 7.16(6), that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, or shoreline erosion itself, without a geotechnical report, is not demonstration of need. The geotechnical report shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed.
2. The shoreline stabilization measure will not result in a net loss of shoreline ecological functions.

B. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply.

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
2. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report prepared in accordance with regulation 7.16(6). The damage must be caused by natural processes, such as currents and waves.
4. The shoreline stabilization measure will not result in a net loss of shoreline ecological functions.

C. In support of water-dependent development, when all of the conditions below apply.

1. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
2. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
3. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report prepared in accordance with regulation 7.16(6).

4. The shoreline stabilization measure will not result in a net loss of shoreline ecological functions.

D. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW 70.105D, when all of the conditions below apply.

1. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

2. The shoreline stabilization measure will not result in a net loss of shoreline ecological functions.

(4) **Replacement of existing structural stabilization measures.** For purposes of this section, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures. An existing shoreline stabilization structure may be replaced with a similar structure if in accordance with the following.

A. There is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

B. The replacement structure must be designed, located, sized, and constructed to assure no net loss of ecological functions.

C. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

(5) **Repair and maintenance.** Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following provisions. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a shoreline substantial development permit, such activity is not exempt from the provisions of the City's Shoreline Master Program.

A. Any additions to or increases in the size of existing shoreline stabilization measures, including the placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure, shall be considered new structures, not maintenance or repair.

B. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

(6) **Geotechnical reports.** Geotechnical reports pursuant to this section shall meet the definition of a "geotechnical report" as established in Chapter 2, Definitions, and comply with the following provision, as applicable.

A. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.

(7) **Design of structural stabilization measures.**

A. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses. Hard armoring solutions shall not be authorized except when a geotechnical report prepared in accordance with regulation 7.16(6) confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

B. The size of stabilization measures shall be limited to the minimum necessary.

C. Measures shall be used to assure no net loss of shoreline ecological functions.

D. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

E. Avoid and, if that is not possible, minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, the local governments should coordinate shoreline management efforts.

F. Publicly financed or subsidized shoreline erosion control measures must not restrict appropriate public access to the shoreline except where such access is determined to be infeasible in accordance with Section 6.5, Public access. Where feasible, ecological restoration and public access improvements shall be incorporated into projects.

7.17 Transportation & parking

(1) **Planning, location, and design.** Transportation and parking facilities and routes must be planned, located, and designed to have the least possible adverse effect on unique or fragile shoreline features, to not result in a net loss of shoreline ecological functions, and to not adversely impact existing or planned water-dependent uses.

A. Where other options are available and feasible, new roads or road expansions shall not be built within shoreline jurisdiction.

B. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.

(2) **Parking facilities.** Parking facilities in shorelines are not a preferred use and are subject to the following provisions:

A. Parking shall be allowed only as necessary to support an authorized use.

B. Parking shall be sited outside of shoreline jurisdiction unless no feasible alternative location exists.

C. Parking shall be located landward of the use served, if feasible.

D. Parking shall be planted or landscaped to provide a visual and noise buffer if adjoining dissimilar uses or scenic areas.

7.18 Utilities

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

(2) **Production and processing facilities.** Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

(3) **Transmission facilities.** Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

(4) **Existing right-of-ways and corridors.** Utilities shall be located in existing right-of-ways and corridors whenever possible.

(5) **Crossings.** Where utility corridors must cross shoreline jurisdiction, such crossings shall take the shortest, most direct route feasible, unless such a route would result in loss of ecological function, disrupt public access to the shoreline, or obstruct visual access to the shoreline.

(6) **Design and location.** All utility facilities shall be designed and located to assure no net loss of shoreline ecological functions.

(7) **Post-installation.** Upon completion of utility system installation, and any maintenance project, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide appropriate vegetative cover.

8 ADMINISTRATION, PERMITS & ENFORCEMENT

8.1 Administrative responsibilities

(1) **Administrator.** The administrator for the City is the Public Works Director or his/her designee. The Public Works Director is vested with the authority to:

A. Administer the City's Shoreline Master Program.

B. Advise interested persons and prospective applicants as to the administrative procedures and related components of the City's Shoreline Master Program.

C. Determine applicable fees and collect fees for all necessary permits as provided in City ordinances or resolutions.

D. Make field inspections as needed, and prepare or require reports on shoreline permit applications.

E. Make administrative decisions and interpretations of the policies and regulations of the City's Shoreline Master Program and the Shoreline Management Act. The Public Works Director is encouraged to coordinate with Ecology prior to making written interpretations.

F. Grant or deny exemptions from shoreline substantial development permit requirements.

G. Grant or deny shoreline substantial development permits and time extensions to shoreline permits and their revisions.

H. Make written recommendations to the Hearing Examiner, Planning Commission, or City Council as appropriate, including recommendations to grant or deny shoreline conditional use permits and shoreline variance permits. The Public Works Director may recommend amendments to the City's Shoreline Master Program to the Planning Commission and City Council.

I. Issue a stop work order pursuant to the procedure set forth in WAC 173-27-270 upon a person undertaking an activity on shorelines in violation of RCW 90.58 or the City's Shoreline Master Program, and seek remedies for alleged violations of the City's Shoreline Master Program, provisions of the Shoreline Management Act, or conditions attached to a shoreline permit issued by the City.

(2) **State Environmental Policy Act Official.** The responsible State Environmental Policy Act official or his/her designee is authorized to conduct environmental review of all use and development activities subject to the City's Shoreline Master Program, pursuant to WAC 197-11 and RCW 43.21C. The responsible State Environmental Policy Act official is designated in accordance with the City's State Environmental Policy Act implementation ordinance.

(3) **Hearing Examiner.** The Hearing Examiner shall have the authority to:

A. Grant or deny shoreline conditional use permits.

B. Grant or deny shoreline variance permits.

C. Decide on appeals of administrative decisions issued by the Public Works Director.

(4) **Planning Commission.** The Planning Commission may review the City's Shoreline Master Program as part of regular updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments to the City Council.

(5) **City Council.** The City Council is vested with authority to:

A. Initiate an amendment to McCleary's Shoreline Master Program according Section 8.13, Amendments.

B. Adopt all amendments to McCleary's Shoreline Master Program, after consideration of the recommendation of the Planning Commission, if established. Amendments shall become effective 14 days from the date of Ecology's written notice of final approval.

8.2 Nonconforming uses, lots & structures

(1) **Applicable regulations.** Nonconforming uses, lots, and structures shall be subject to applicable provisions in McCleary Municipal Code Chapter 17.36, Nonconforming Uses, Lots and Structures.

8.3 Exemptions

(1) **Application and interpretation of exemptions.**

A. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the shoreline substantial development permit process.

B. An exemption from the shoreline substantial development permit process is not an exemption from compliance with the Shoreline Management Act or the City's Shoreline Master Program, nor from any other regulatory requirements. To be

authorized, all uses and developments must be consistent with the provisions of the City's Shoreline Master Program and the Shoreline Management Act. A development or use that is listed as a shoreline conditional use pursuant to City's Shoreline Master Program or is an unlisted use, must obtain a shoreline conditional use permit even though the development or use does not require a shoreline substantial development permit. When a development or use is proposed that does not comply with the dimensional or performance standards of the City's Shoreline Master Program, such development or use can only be authorized by approval of a shoreline variance.

C. The burden of proof that a development or use is exempt from the permit process is on the applicant.

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

E. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and the City's Shoreline Master Program.

(2) **Exempt developments.** The City shall exempt from shoreline substantial development permit requirements the shoreline developments listed in WAC 173-27-040(2); RCW 90.58.030(3)(e); RCW 90.58.140(9); RCW 90.58.147; RCW 90.58.355; and RCW 90.58.515.

(3) **Letter of exemption.** The City shall issue a letter of exemption when required by WAC 173-27-050. Otherwise, the exemption status shall be documented in the project application file.

8.4 Shoreline permit application requirements

(1) **Shoreline permit application requirements.** A complete application for a shoreline permit shall contain, as a minimum, the following information, as well as any other application requirements identified in the City's Shoreline Master Program.

A. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

B. The name, address and phone number of the applicant's representative if other than the applicant.

C. The name, address and phone number of the property owner, if other than the applicant.

D. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter

section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

E. Identification of the name of the shoreline (waterbody) with which the site of the proposal is associated. This should be the waterbody from which jurisdiction of the Shoreline Management Act over the project is derived.

F. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

G. A general description of the property as it now exists including its physical characteristics and improvements and structures.

H. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

I. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text that shall include:

1. The boundary of the parcel(s) of land upon which the development is proposed.

2. The ordinary high water mark of all waterbodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

3. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

4. A delineation of all wetland areas that will be altered or used as a part of the development.

5. A general indication of the character of vegetation found on the site.

6. The dimensions and locations of all existing and proposed structures and improvements including but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.
7. Where applicable, a landscaping plan for the project.
8. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
9. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.
10. Quantity, composition and destination of any excavated or dredged material.
11. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
12. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

(2) **Additional requirements for shoreline variance permit applications.** On all shoreline variance permit applications, the plans shall clearly indicate where development could occur without approval of a shoreline variance permit, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

8.5 Shoreline permit application notice requirements

(1) **Applicability.** The City shall notify the public, Ecology, and other agencies with jurisdiction of applications for a shoreline permit. Notification pursuant to this section may be carried out as a part of an integrated City permit notification procedure.

(2) **Notice of application.** The City shall provide notice of application within 14 days after the determination of completeness as provided in RCW 36.70B.070, and include the following in whatever sequence or format the City deems appropriate:

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, 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 30 days following the date of notice of application, and statements 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. The City may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit.

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

G. 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.

H. Any other information determined appropriate by the City.

(3) **Open record predecision hearing.** If an open record predecision hearing, as defined in RCW 36.70B.020, is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing.

(4) **Notification of general public and property owners.** The City shall give notice to the general public and property owners in the vicinity by at least one of the following methods:

A. Mailing of the notice to the latest recorded real property owners as shown by the records of the County assessor within at least 300 feet of the boundary of the property upon which the development is proposed;

B. Posting of the notice in a conspicuous manner on the property upon which the project is to be undertaken; or

C. Any other manner deemed appropriate by the City to accomplish the objectives of reasonable notice to adjacent landowners and the public.

(5) **Notification of individuals and organizations.** The City shall provide for timely notification of individuals and organizations that request such notice in writing.

(6) **Notification of agencies.** The City shall provide notice to all agencies with jurisdiction per RCW 43.21C and to all other agencies that request in writing any such notice.

8.6 Special shoreline permit procedures for limited utility extensions & bulkheads

(1) **Limited utility extension.** For purposes of this section, a "limited utility extension" means the extension of a utility service that:

A. Is categorically exempt under RCW 43.21C RCW for one or more of the following: natural gas, electricity, telephone, water, or sewer;

B. Will serve an existing use in compliance with the City's Shoreline Master Program; and

C. Will not extend more than 2,500 linear feet within the shorelines of the state.

(2) **Time periods and procedures.** An application for a shoreline substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to all other applicable requirements, except that the following time periods and procedures shall be used:

A. The public comment period shall be 20 days. The notice provided shall state the manner in which the public may obtain a copy of the City's decision on the application no later than two days following its issuance.

B. The City shall issue its decision to grant or deny the permit within 21 days of the last day of the comment period.

C. If there is an appeal of the decision to grant or deny the permit to the City government legislative authority, the appeal shall be finally determined by the legislative authority within 30 days.

8.7 Shoreline permit review criteria

8.7.1 Review criteria for all development

(1) **Consistency.** No authorization to undertake 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 provisions of the Shoreline Management Act and the City's Shoreline Master Program.

8.7.2 Review criteria for shoreline substantial development permits

(1) **Authorization criteria.** A shoreline substantial development permit shall be granted only when the development proposed is consistent with:

A. The policies and procedures of the Shoreline Management Act;

B. The provisions of this regulation; and

C. The City's Shoreline Master Program.

(2) **Conditions.** The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the Shoreline Management Act and the City's Shoreline Master Program.

8.7.3 Review criteria for shoreline conditional use permits

(1) **Applicability.** The purpose of a shoreline conditional use permit is to provide a system within the City's Shoreline Master Program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a shoreline conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and the City's Shoreline Master Program.

(2) **Authorization criteria.** Uses which are classified or set forth in the City's Shoreline Master Program as shoreline conditional uses may be authorized provided that the applicant demonstrates all of the following:

A. That the proposed use is consistent with the policies of RCW 90.58.020 and the City's Shoreline Master Program;

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

C. 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 the City's Shoreline Master Program;

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

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

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

(4) **Uses not classified.** Other uses which are not classified or set forth in the City's Shoreline Master Program may be authorized as shoreline conditional uses provided the applicant can demonstrate consistency with the requirements of this section.

(5) **Prohibited uses.** Uses which are specifically prohibited by the City's Shoreline Master Program may not be authorized.

8.7.4 Review criteria for shoreline variance permits

(1) **Applicability.** The purpose of a shoreline variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the City's Shoreline Master Program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the City's Shoreline Master Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

(2) **Circumstances.** Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

(3) **Authorization criteria, landward of ordinary high water mark.** Shoreline variance permits for development and/or uses that will be located landward of the ordinary high water mark, as defined in RCW 90.58.030(2)(c), 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 City's Shoreline Master Program precludes, or significantly interferes with, reasonable use of the property;

B. That the hardship described in regulation 8.7.4(3)A 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 City's Shoreline 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 the City's Shoreline Master 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.

(4) **Authorization criteria, waterward of ordinary high water mark.** Variance permits for development and/or uses that will be located waterward of the ordinary high water mark, as defined in RCW 90.58.030(2)(c), 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 City's Shoreline Master Program precludes all reasonable use of the property;

B. That the proposal is consistent with the criteria established under regulation 8.7.4(3)(B) through regulation 8.7.4(3)(F); and

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

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

(6) **Variances from use.** Variances from the use regulations of the City's Shoreline Master Program are prohibited.

8.8 Filing with Ecology

(1) **Submittal upon final decision.** All applications for a permit or a permit revision shall be submitted to Ecology upon a final decision by the City. Final decision by the City shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

(2) **Concurrent submittals.** When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

(3) **Submittal requirements.** A complete submittal shall consist of the following documents and information:

A. A copy of the complete application pursuant to Section 8.4, Shoreline permit application requirements;

B. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable policies and

regulations of the City's Shoreline Master Program and the consistency of the project with appropriate review criteria for the type of permit(s) as established in Section 8.7, Shoreline permit review criteria;

C. The final decision of the City;

D. The permit data sheet required by WAC 173-27-190; and

E. Where applicable, the City shall also file the applicable documents required by chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under chapter 43.21C RCW.

(4) **Project modification during City review.** When the project has been modified in the course of the City review process, plans or text shall be provided to Ecology that clearly indicate the final approved plan.

(5) **Incomplete submittals.** Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to subsections (3) and (4) of this section have been received by Ecology. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and so notify the City and the applicant in writing. Ecology will not act on a conditional use permit or variance submittal until the material requested in writing is submitted to Ecology.

(8) **Notice of "date of filing."** Ecology shall provide a written notice to the City and the applicant of the "date of filing."

(9) **Transmittal of decision.** Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with Ecology and the attorney general.

(10) **Appeals.** See Section 8.11, Appeals of final permit decisions.

8.9 Time requirements of shoreline permits

(1) **Applicability.** The time requirements of this section shall apply to all shoreline permits authorized by the City's Shoreline Master Program.

(2) **Different time limits.** Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the provisions of the City's Shoreline Master Program, the City may adopt different time limits from those set forth in regulation 8.9(3) and regulation 8.9(4) as a part of action on a shoreline permit.

(3) **Commencement.** Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the

effective date of the shoreline permit. 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 before the expiration date and notice of the proposed extension is given to parties of record on the shoreline permit and to Ecology.

(4) **Termination.** Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. 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 before the expiration date and notice of the proposed extension is given to parties of record on the shoreline permit and to Ecology.

(5) **Effective date.** The effective date of a shoreline permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in regulation 8.9(3) and regulation 8.9(4) do not include the time during which a use or activity was not actually pursued due to pending administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

(6) **Revisions.** Revisions to permits may be authorized after original permit authorization has expired, provided that this procedure shall not be used to extend the original permit time requirements or to authorize shoreline substantial development after the time limits of the original permit.

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

8.10 Shoreline permit revisions

(1) **Applicability.** A permit revision is required whenever an 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 City's Shoreline Master Program and/or the policies and provisions of RCW 90.58. Changes that are not substantive in effect do not require approval of a revision.

(2) **Description of proposed changes.** When an applicant seeks to revise a permit, the City shall request from the applicant detailed plans and text describing the proposed changes.

(3) **Approval of revisions.** If the City determines that the proposed changes are within the scope and intent of the original permit, and are consistent with the City's Shoreline Master Program and the Shoreline Management Act, the City may approve a revision. If the

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

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

1. No additional over water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or ten percent from the provisions of the original permit, whichever is less;
2. Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit;
3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the City's Shoreline Master Program except as authorized under a shoreline variance granted as the original permit or a part thereof;
4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with the City's Shoreline Master Program;
5. The use authorized pursuant to the original permit is not changed; and
6. No adverse environmental impact will be caused by the project revision.

(4) **Revisions after original permit authorization has expired.** Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes that are consistent with this section and that would not require a permit for the development or change proposed under the terms of RCW 90.58, this regulation and the City's Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this regulation shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

(5) **Filing and notification.** The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the City shall notify parties of record of their action.

(6) **Revisions to shoreline conditional use permits and shoreline variance permits.** If the revision to the original permit involves a shoreline conditional use permit or shoreline variance permit, the City shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this regulation. Ecology shall render and transmit to the City and the applicant its final decision within 15 days of the date of Ecology's receipt of the submittal from the City. The City shall notify parties of record of Ecology's final decision.

(7) **Effective date.** The revised permit is effective immediately upon final decision by the City or, when appropriate under regulation 8.10(6), upon final action by Ecology.

(8) **Appeals.** See Section 8.11, Appeals of final permit decisions.

8.11 Appeals of final permit decisions

(1) **Appeals.** All appeals of any final permit decisions under RCW 90.58 and WAC 173-27 are governed by the procedures established in RCW 90.58.180 and WAC 461-08.

8.12 Enforcement

(1) **WAC 173-27 Part II.** The City shall apply WAC 173-27 Part II, Shoreline Management Act Enforcement, to enforce the provisions of the City's Shoreline Master Program.

8.13 Amendments

(1) **Process.** Amendments to the City's Shoreline Master Program shall be processed according to the procedures prescribed in WAC 173-26-100.

8.14 Shoreline activity tracking

(1) **Documentation of City shoreline project review actions.** The City shall document all project review actions in shoreline jurisdiction, including shoreline substantial development permits, shoreline conditional use permits, shoreline variance permits and shoreline exemptions.

(2) **Periodic evaluation.** The City shall conduct a review of the City's Shoreline Master Program once every eight years, or as required by RCW 90.58.080. Using the information collected per regulation 8.14(1), the City shall evaluate the cumulative effects of authorized development on shoreline conditions.

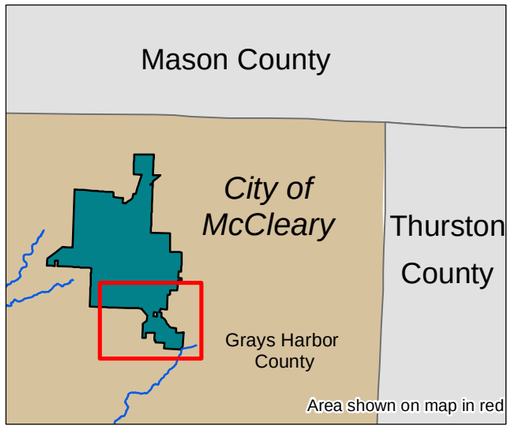
8.15 Annexation

(1) **Annexation of shoreline areas.** City annexation of shoreline areas are subject to the requirements of WAC 173-26-150 and WAC 173-26-160.

APPENDIX A:
OFFICIAL SHORELINES MAP

City of McCleary

Official Shorelines Map[1]



- Shoreline Jurisdiction

Environment Designation[2]

- Shoreline Residential
- Urban Conservancy
- Potentially Associated Wetland
- SMP Stream
- SMP Waterbody
- Other Stream
- Parcel boundary
- Road
- City Limit

Notes:

[1] Adopted July 13, 2016 (Ordinance No. 818).

[2] All areas waterward of the ordinary high water mark are designated Aquatic.

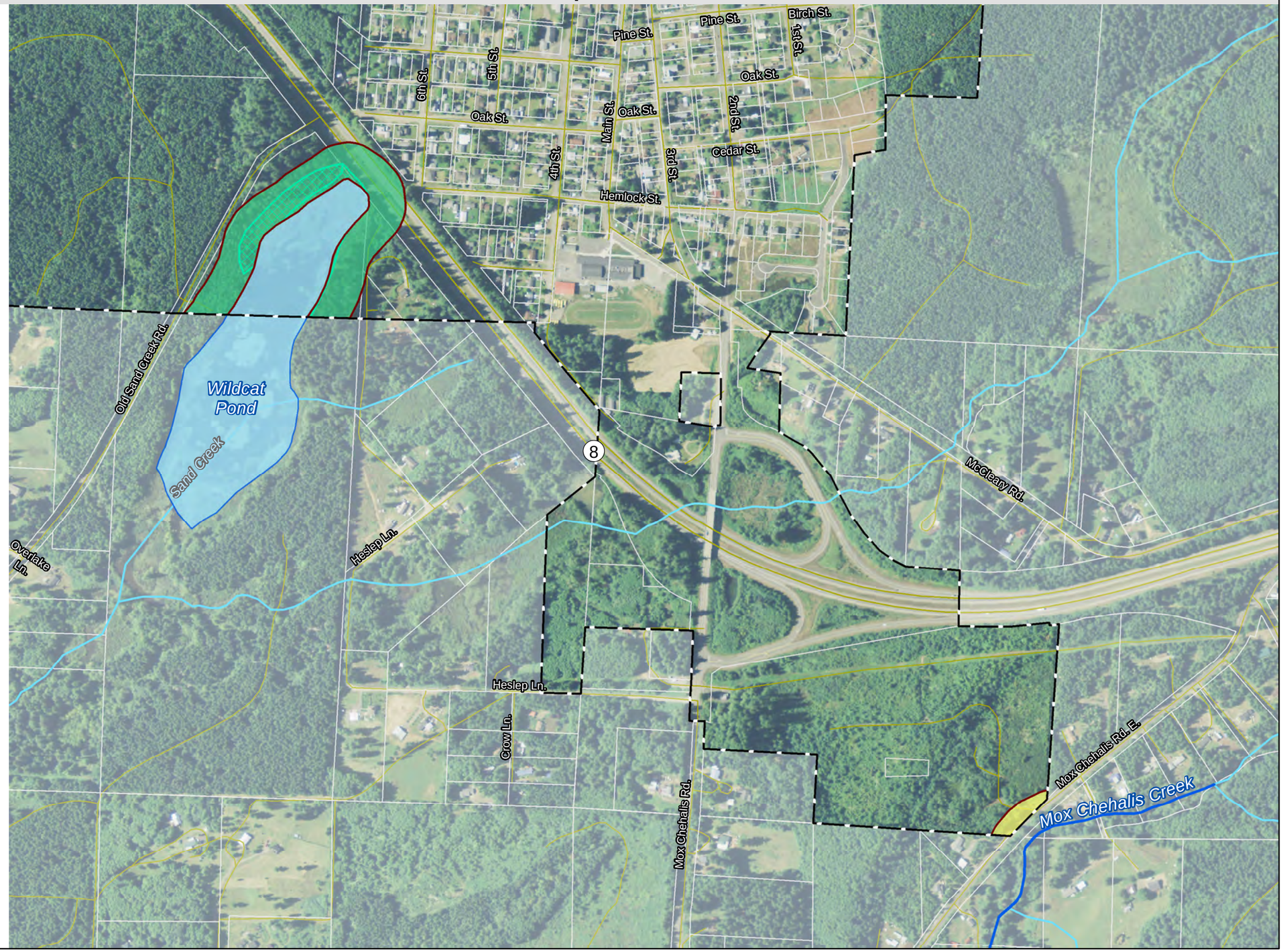
0 400 800
Feet
1 inch = 650 feet

N W E S

THE WATERSHED COMPANY

All features depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. Additional site-specific evaluation may be needed to confirm information shown on this map.

Revision Date: 7/18/2016



APPENDIX B:
SHORELINE CRITICAL AREAS REGULATIONS

1 GENERAL PROVISIONS 1
1.1 Purpose 1
1.2 Designation & mapping of critical areas 1
1.3 Critical area review 2
1.4 Activities exempt from critical area review 3
1.5 Activities allowed without critical area submittals 4
1.6 Critical area special study 7
1.7 Mitigation 8
1.8 General critical area protective measures 10
1.9 Warning and disclaimer of liability 11
2 WETLANDS 11
2.1 Purpose 11
2.2 Identification & rating 12
2.3 Regulated activities 12
2.4 Certain isolated Category III & IV wetlands 13
2.5 Allowed uses in wetlands 14
2.6 Wetland buffers 15
2.7 Standards 19
2.8 Critical area special study for wetlands 20
2.9 Compensatory mitigation 21
3 CRITICAL AQUIFER RECHARGE AREAS 30
3.1 Purpose 30
3.2 Designation 30
3.3 Critical area special study for critical aquifer recharge areas 30
3.4 Standards 31
4 FREQUENTLY FLOODED AREAS 32
4.1 Purpose 32
4.2 Designation 32
4.3 Standards 33
5 GEOLOGICALLY HAZARDOUS AREAS 33
5.1 Landslide hazard areas 33
5.2 Erosion hazard areas 35
5.3 Seismic hazard areas 36
6 FISH AND WILDLIFE HABITAT CONSERVATION AREAS 38
6.1 Purpose 38
6.2 Designation 39
6.3 Critical area special study for fish & wildlife habitat conservation areas 40
6.4 Standards 41

1 GENERAL PROVISIONS

1.1 Purpose

A. Wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas and fish and wildlife habitat conservation areas constitute critical areas that are of special concern to the City. The purposes of this appendix are to protect the public health, safety, and welfare by:

1. Protecting and restoring critical areas, and/or mitigating impacts to critical areas by regulating their development;

2. Protecting the public from damage due to landslide, subsidence, or erosion;

3. Preventing any adverse impacts to water quality, wetlands, and streams;

4. Protecting the public against losses from:

    a. Unnecessary maintenance and replacement of public facilities;

    b. Publicly funded mitigation of avoidable impacts; and

    c. Cost for public emergency rescue and relief operations;

5. Alerting appraisers, assessors, owners, buyers or lessees to the development limitations of the critical areas;

6. Providing the City with information to approve, condition, or deny public or private development proposals;

7. Protecting the economic and ecological values of the environment.

1.2 Designation & mapping of critical areas

A. Portions of the City's shoreline jurisdiction may include the following critical areas: wetlands; critical aquifer recharge areas; frequently flooded areas; geologically hazardous areas; fish and wildlife habitat conservation areas.

B. Critical area maps.

1. Critical areas may be designated on maps available through the City. These maps contain the best available graphic depiction of critical areas and will be continuously updated as reliable data becomes available. These maps are for informational and illustrative purposes only and are not regulatory in nature.

2. The critical area maps are intended to alert the development community, appraisers, and current or prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems.

3. Interpretation of critical area maps.

    a. The critical area maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the maps are presumed to exist in the locations shown and are protected under all the provisions of this appendix. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in the City's Shoreline Master Program. All development applications are required to show the boundary of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

1.3 Critical area review

A. Prior to accepting a development application tendered pursuant to the City's Shoreline Master Program, the Public Works Director shall determine whether or not the property subject to the application is within or adjacent to any area shown as a critical area. The Public Works Director may use indicators to assist with the determination, including, but not limited to, indication of a critical area on the critical areas maps; information and scientific opinions from appropriate agencies; documentation from a scientific or other reasonable source; or a finding by a qualified professional or a reasonable belief that a critical area may exist on or adjacent to the site of the proposed activity.

1. When such areas are encountered, the applicant will promptly be notified and the type(s) of critical areas disclosed. Instructions shall be provided to the applicant on the type of evaluation and site-specific analysis that may be required as a supplement to the application materials necessary to bring the application up to a standard that can be characterized as complete and eligible for processing.

2. If the subject property does not lie within, partly within or adjacent to the critical areas as depicted on the critical area maps, the application will be considered

complete, provided the application requirements of the City's Shoreline Master Program are satisfied.

B. From the effective date of the City's Shoreline Master Program, no development application shall be approved without a written finding that this appendix has been considered, additional information has been assembled under this appendix or was not required, and that the purpose and intent of this appendix has been accorded substantial consideration.

C. The requirements set forth in this appendix shall be considered as minimum requirements in the processing of development applications under the City's Shoreline Master Program and represent standards in addition to the requirements set forth in other titles.

1.4 Activities exempt from critical area review

A. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this appendix does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

B. The following developments, activities, and associated uses shall be exempt from the provisions of this appendix, provided they are otherwise consistent with the provisions of other local, state, and federal requirements:

1. Emergency actions necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this appendix.

    a. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer.

    b. The person or agency undertaking such action shall notify the Public Works Director within one working day following commencement of the emergency activity. Following such notification, the Public Works Director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the Public Works Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions may apply.

c. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area special study and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area special study, and mitigation plan must be reviewed by the Public Works Director. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner.

2. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

3. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching.

4. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, Title 222 WAC, provided that forest practice conversions are not exempt.

1.5 Activities allowed without critical area submittals

A. Activities allowed under this subsection are subject to review and approval by the City, but do not require submittal of a critical area special study. The Public Works Director may apply conditions to the underlying permit or approval to ensure that the activity is consistent with the provisions of the City's Shoreline Master Program.

B. All activities allowed under this subsection must be conducted using best management practices that result in the least amount of impact to critical areas and their buffers. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. The following activities are allowed provided they are consistent with all applicable provisions of the City's Shoreline Master Program:

1. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to a critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement.

2. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a City-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater.

3. Utility projects that have minor or short-duration impacts to critical areas, as determined by the Public Works Director in accordance with the criteria below, and which do not significantly impact the function or values of a critical area, provided that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

    a. There is no practical alternative to the proposed activity with less impact on critical areas; and

    b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility.

4. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

    a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

    b. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

5. The following vegetation removal activities, provided that activities comply with the regulations of Section 6.6 of the main body of the City's Shoreline Master Program,

Vegetation conservation, and that no vegetation shall be removed from a critical area or its buffer without approval from the Public Works Director:

a. The removal of invasive and noxious weeds with hand labor and light equipment.

b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:

i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees.

(a) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from City provided that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of the City's Shoreline Master Program.

ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional.

iii. Any trees that are removed must be replaced with new trees at a ratio of two replacement trees for each tree removed within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball.

iv. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods or removal that will minimize impacts.

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that

the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

6. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with Washington State Department of Fish and Wildlife management recommendations, Washington State Department of Agriculture and U.S. Environmental Protection Agency regulations, and any other applicable regulations.

7. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

8. Construction or modification of boundary markers.

1.6 Critical area special study

A. If the Public Works Director determines that critical areas may be affected by the proposal and a critical area special study is required, the report shall be prepared pursuant to this subsection. The applicant shall pay all expenses associated with the preparation of critical area special studies required by the City.

B. Requirements.

1. The critical area special study must be prepared by a qualified professional. No site analysis required by this ordinance will be considered complete without a detailed resume' of the principal author(s) which disclose(s) their technical training and experience and demonstrate their stature as qualified professionals.

2. The critical area special study shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used.

3. At a minimum, a critical area special study shall contain the following, as applicable:

a. The name and contact information of the applicant, a description of the proposal, and identification of any permits known to be required.

b. The dates, names, and qualifications of the persons preparing the special study and documentation of any fieldwork performed on the site.

c. A site plan (to scale) including, but not limited to, the development proposal, critical areas and buffers, and areas to be cleared.

d. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area.

e. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.

f. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development.

g. A description of reasonable efforts made to apply mitigation sequencing pursuant to regulation 1.7.B of this appendix.

h. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with regulation 1.7.C of this appendix.

i. Any additional information required for the critical area as specified in a specific chapter in this appendix.

j. A statement specifying the accuracy of the special study, and assumptions made and relied upon.

C. A critical area special study may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Public Works Director.

1.7 Mitigation

A. General requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area to the maximum extent practicable. If alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance

with an approved critical area special study, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after City approval of a critical area special study that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area special study.

B. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the below sequential order of preference. Mitigation for individual actions may include a combination of the below measures.

1. Avoiding the impact altogether by not taking a certain action or parts of an action;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

6. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

C. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the critical area special study. The mitigation plan shall include:

1. A description of the anticipated impacts to critical areas and the mitigating actions proposed, including compensation goals and objectives, mitigation site selection, and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area.

2. Performance standards for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of the City's Shoreline Master Program have been met.

3. Detailed construction plans.

4. A program for monitoring construction of the compensation project and for assessing the completed project. A protocol shall be included outlining the schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

5. A contingency plan including identification of potential courses of action and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

6. Financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented.

1.8 General critical area protective measures

A. Unless otherwise provided, buildings and other structures shall be set back a distance of 10 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required.

   1. The following may be allowed in the building setback area: landscaping; uncovered decks; building overhangs, if such overhangs do not extend more than 18 inches into the setback area; and impervious ground surfaces, such as driveways and patios.

B. Notice on title.

1. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the Grays Harbor County Auditor according to the direction of the City. The notice shall state the presence of the critical area or buffer on the property, the application of critical area regulations to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

2. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

   a. Within a recorded easement or right-of-way;

   b. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or

   c. On the site of a permanent public facility.

C. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

1.9 Warning and disclaimer of liability

A. The degree of hazard protection required by this appendix is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Catastrophic natural disasters can, and will, occur on rare occasions. This appendix does not imply that land outside the critical areas or activities permitted within such areas will be free from exposure or damage. This appendix shall not create liability on the part of the City, and officers or employees thereof, for any damages that result from reliance on this appendix or any administrative decision lawfully made hereunder.

2 WETLANDS

2.1 Purpose

A. The purpose of this section is to regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the City's shoreline jurisdiction.

2.2 Identification & rating

A. The approximate locations and extents of wetlands may be shown on, but shall not be limited to, National Wetlands Inventory maps. The maps are for reference only and do not provide a final critical area designation.

B. Identification of wetlands and delineation of their boundaries pursuant to this section shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City's shoreline jurisdiction meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of the City's Shoreline Master Program.

   1. Wetland delineations are valid for five years; after such date the City shall determine whether a revision or additional assessment is necessary.

C. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington (Ecology Publication #14-06-029, or as revised and approved by Ecology).

   1. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.

2.3 Regulated activities

A. The following activities are regulated, if they occur in a regulated wetland or its buffer. For any regulated activity, a critical area special study may be required to support the requested activity.

   1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.

   2. The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater.

   3. The draining, flooding, or disturbing of the water level, duration of inundation, or water table.

   4. Pile driving.

   5. The placing of obstructions.

6. The construction, reconstruction, demolition, or expansion of any structure.

7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.

8. "Class IV - General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.

9. Activities that result in:

    a. A significant change of water temperature.

    b. A significant change of physical or chemical characteristics of the sources of water to the wetland.

    c. A significant change in the quantity, timing, or duration of the water entering the wetland.

    d. The introduction of pollutants.

    e. An ecological impact to the physical, chemical, or biological characteristics of wetlands.

B. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

1. Land that is located wholly within a wetland or its buffer may not be subdivided.

2. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is:

    a. Located outside of the wetland and its buffer; and

    b. Meets minimum lot size requirements.

2.4 Certain isolated Category III & IV wetlands

A. The following wetlands are exempt from the buffer provisions contained in this section and the normal mitigation sequencing process in regulation 1.7.B of this appendix. They may be filled if impacts are fully mitigated based on provisions in subsection 2.9 of this appendix, Compensatory mitigation. If available, impacts should be mitigated through the

purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. In order to verify the following conditions, a critical area special study for wetlands meeting the requirements in subsection 2.8 of this appendix, Critical area special study for wetlands, must be submitted.

1. All isolated Category III and IV wetlands less than 1,000 square feet that:

    a. Are not associated with riparian areas or buffers.

    b. Are not part of a wetland mosaic.

    c. Do not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife or species of local importance.

    d. Do not score 5 or more points for habitat function.

2.5 Allowed uses in wetlands

A. The activities listed below may be allowed in wetlands. These activities do not require submission of a critical area special study, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

1. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.

2. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water

down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

5. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

6. Educational and scientific research activities.

7. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way.

2.6 Wetland buffers

A. The standard buffer widths in Table B2-1 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.

1. The use of the standard buffer widths requires the implementation of the measures in Table B2-2, where applicable, to minimize the impacts of the adjacent land uses.

2. If an applicant chooses not to apply the mitigation measures in Table B2-2, then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

3. The standard buffer widths assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer must either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

Table B2-1. Standard wetland buffer widths

Wetland Category	Buffer Width Based on Habitat Score (in feet)			
	3-4	5	6-7	8-9
Category I				
General	75	105	165	225
Bogs and wetlands of high conservation value	190			225
Forested	75	105	165	225
Category II				
All	75	105	165	225
Category III				
All	60	105	165	225
Category IV				
All	40			

Table B2-2. Required measures to minimize impacts to wetlands

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland
	If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source
	For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered
	Establish covenants limiting use of pesticides within 150 feet of wetland
	Apply integrated pest management
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development
	Prevent channelized flow from lawns that directly enters the buffer
	Use Low Intensity Development techniques

Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion
	Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed
	Restore corridors or connections to offsite habitats by replanting

4. Buffer widths shall be increased on a case-by-case basis as determined by the Public Works Director when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but not be limited to, the following criteria:

    a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;

    b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

    c. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

5. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

    a. The wetland has significant differences in characteristics that affect its habitat functions.

b. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical area special study from a qualified wetland professional.

c. The total area of the buffer after averaging is equal to the area required without averaging.

d. The buffer at its narrowest point is never less than either 75 percent of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

6. All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

7. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field.

8. In addition to the activities listed in subsection 2.5 of this appendix, Allowed uses in wetlands, the following uses may be allowed within a wetland buffer in accordance with the review procedures of this appendix, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland.

a. Passive recreation facilities, including:

i. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

ii. Wildlife-viewing structures.

b. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only, provided that:

i. No other location is feasible; and

ii. The location of such facilities will not degrade the functions or values of the wetland.

9. Requirements for the compensation for impacts to buffers are outlined in subsection 2.9 of this appendix, Compensatory mitigation.

10. Except as otherwise specified or allowed in accordance with this appendix, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

2.7 Standards

A. Signs and fencing of wetlands and buffers.

1. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Public Works Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. As a condition of any permit or authorization issued pursuant to this appendix, the Public Works Director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever interval is less, and must be maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Public Works Director:

Protected Wetland Area
Do Not Disturb
Contact the City of McCleary
Regarding Uses, Restrictions, and Opportunities for Stewardship

3. Fencing.

a. The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

b. Fencing installed as part of a proposed activity or as required shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

2.8 Critical area special study for wetlands

A. If the Public Works Director determines that a wetland may exist within 250 feet of a proposed development, a wetland special study, prepared by a qualified professional, shall be required.

B. In addition to the information in regulation 1.6.B.3 of this appendix, the written report and the accompanying plan sheets shall contain the following information, at a minimum.

1. Written report.

a. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.

b. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses including references.

c. For each wetland identified on site and within 250 feet of the project site provide: the wetland rating; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g. algal mats, drift lines, flood debris). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

d. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation.

e. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

f. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

2. Plan sheets.

a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates).

b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

2.9 Compensatory mitigation

A. Before impacting any wetland or its buffer, an applicant shall demonstrate that the mitigation sequencing actions in regulation 1.7.B of this appendix have been taken.

B. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Publication #09-06-32, Olympia, WA, December 2009).

C. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

1. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions

shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

D. Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

1. Restoration (re-establishment and rehabilitation) of wetlands.

2. Creation (establishment) of wetlands on disturbed upland sites.

a. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the approval authority may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

i. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;

ii The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;

iii. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g. due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and

iv. The proposed wetland and buffer will eventually be self-sustaining with little or no long-term maintenance.

3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:

a. How the proposed enhancement will increase the wetland's/buffer's functions;

b. How this increase in function will adequately compensate for the impacts; and

c. How all other existing wetland functions at the mitigation site will be protected.

4. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on the quality of the wetlands being altered and the quality of the wetlands being preserved. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

   a. The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites: Category I or II wetland rating, rare wetland type, the presence of habitat for priority or locally important wildlife species, and priority sites in an adopted watershed plan.

   b. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other Endangered Species Act listed species.

   c. There is no net loss of habitat functions within the watershed or basin.

   d. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

   e. Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.

   f. The impact area is small (generally <½ acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

E. Location of compensatory mitigation.

1. Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the below apply. In that case, mitigation may be allowed off site within the subwatershed of the impact site. When considering off-site mitigation, preference should be given to using alternative mitigation, such as a mitigation bank, an in-lieu fee program, or advanced mitigation. Compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland.

a. There are no reasonable opportunities on site or within the sub-drainage basin, or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts.

b. On-site mitigation would require elimination of high-quality upland habitat.

c. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the altered wetland.

d. Off-site locations shall be in the same sub-drainage basin unless:

i. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site;

ii. Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the certified bank instrument; or

iii. Fees are paid to an approved in-lieu fee program to compensate for the impacts.

F. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

G. Wetland mitigation ratios:

Table B2-3. Wetland mitigation ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation[1]	Enhancement[1]
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

[1] Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment. See Table 1a, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised).

H. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Public Works Director may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report," (Ecology Publication #10-06-011, Olympia, WA, March 2012, or as revised).

I. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

1. A critical area special study for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in subsection 2.8 of this appendix, Critical area special study for wetlands.

2. A compensatory mitigation report, including a written report and plan sheets, that must contain, at a minimum, the following elements. Full guidance can be found in Wetland Mitigation in Washington State–Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as revised).

a. The written report must contain, at a minimum:

i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands.

iii. Description of the existing wetland and buffer areas proposed to be altered. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating.

iv. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e. how would this site progress through natural succession?).

v. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands.

vi. A description of the proposed mitigation construction activities and timing of activities.

vii. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands).

viii. A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five

years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.

ix. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions.

ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be altered, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation.

iii. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions.

iv. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes.

v. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this appendix.

vi. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation.

vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions.

J. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

K. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

L. Wetland mitigation banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

   a. The bank is certified under state rules;

   b. The Public Works Director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

   c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.

2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.

3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument.

M. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, state policy on advance mitigation, and state water quality regulations.

N. The Public Works Director may approve alternative critical areas mitigation plans that are based on best available science, such as priority restoration plans that achieve restoration goals identified in the City's Shoreline Master Program. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and

values than would be provided by the strict application of this section. The Public Works Director shall consider the following for approval of an alternative mitigation proposal:

1. The proposal uses a watershed approach consistent with Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) (Ecology Publication #09-06-32, Olympia, WA, December 2009).

2. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas.

3. Mitigation according to subsection 2.9 of this appendix, Compensatory mitigation, is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards.

4. There is clear potential for success of the proposed mitigation at the proposed mitigation site.

5. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in regulation 2.9.I of this appendix.

6. The plan shall be reviewed and approved as part of overall approval of the proposed use.

7. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.

8. Mitigation guarantees shall meet the minimum requirements as outlined in regulation 2.9.I.2.a.viii of this appendix.

9. Qualified professionals in each of the critical areas addressed shall prepare the plan.

10. The City may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

3 CRITICAL AQUIFER RECHARGE AREAS

3.1 Purpose

A. The City shall regulate development activities in critical aquifer recharge areas to protect groundwater quality and quantity for use as a potable water source.

3.2 Designation

A. For the purposes of this appendix, the boundaries of the City's critical aquifer recharge areas are the boundaries of the two highest DRASTIC zones which are rated 180 and above on the DRASTIC index range.

3.3 Critical area special study for critical aquifer recharge areas

A. Only the following uses of land shall require a critical area special study including a hydrogeologic assessment of the proposed site if the site is located within a critical aquifer recharge area.

1. Hazardous substance processing and handling;
2. Hazardous waste treatment and storage facility;
3. Disposal of on-site sewage for subdivisions and commercial and industrial sites;
4. Waste water treatment plant sludge disposal categorized as S-3, S-4 and S-5;
5. Animal feed lots;
6. Landfills.

B. The hydrogeologic assessment shall include, but is not limited to:

1. Information sources;
2. Geologic setting;
3. Background water quality;

4. Groundwater elevations;

5. Location/depth to perched water tables;

6. Recharge potential of facility site;

7. Groundwater flow direction and gradient;

8. Currently available data on wells located within 1,000 feet of site;

9. Currently available data on any spring within 1,000 feet of site;

10. Surface water location and recharge potential;

11. Water source supply to facility;

12. Any sampling schedules necessary;

13. Discussion of the effects of the proposed project on the groundwater resource.

C. The hydrogeologic assessment shall be submitted by a firm with experience in hydrogeologic assessments or determined acceptable by the City.

D. Uses requiring a hydrogeologic assessment may be conditioned or denied based upon the Public Works Director's evaluation of the hydrogeologic assessment. The hydrogeologic assessment must show the use does not present a threat to the aquifer system and that the proposed use will not cause contaminants to enter the aquifer.

3.4 Standards

A. Whenever possible, uses that are not identified as a threat to the aquifer shall provide as much open permeable space as possible, and impervious surfaces shall be minimized.

B. Underground storage tanks.

1. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes shall be designed and constructed to:

   a. Prevent releases due to corrosion or structural failure for the operational life of the tank;

b. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and

c. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

C. Aboveground storage tanks.

1. No new aboveground storage facility or part thereof shall be fabricated, constructed, installed, used, or maintained in any manner that may allow the release of a hazardous substance to the ground, groundwaters, or surface waters within a critical aquifer recharge area.

2. No new aboveground tank or part thereof shall be fabricated, constructed, installed, used, or maintained without having constructed around and under it an impervious containment area enclosing or underlying the tank or part thereof.

3. A new aboveground tank will require a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks located within a critical aquifer recharge area.

4 FREQUENTLY FLOODED AREAS

4.1 Purpose

A. Protect the important hydrologic functions performed by floodplains and other areas subject to flooding.

4.2 Designation

A. Any flood hazard area shall be as identified in the most recent scientific and engineering report entitled "The Flood Insurance Study for Grays Harbor County," with accompanying flood insurance rate maps prepared by the Federal Emergency Management Agency.

4.3 Standards

A. All developments must follow the provisions of MMC Chapter 15.12, Flood Hazard Area Construction, as applicable.

5 GEOLOGICALLY HAZARDOUS AREAS

5.1 Landslide hazard areas

Development proposals on sites containing landslide hazard areas shall meet the following requirements:

A. Slopes over 40 percent – development standards. All proposed developments on slopes 40 percent or steeper should be avoided if possible.

1. Alterations to slopes over 40 percent shall be allowed as follows:

    a. Construction of public and private utility corridors may be allowed on steep slopes provided that a critical area special study indicates such alteration will not subject the area to the risk of landslide or erosion.

    b. The City shall allow the logging, trimming and limbing of vegetation on steep slopes for the creation and maintenance of views provided that the soils are not disturbed.

    c. Public and private trails may be allowed on 40 percent steep slopes or greater provided they adhere to the construction and maintenance standards in the most current U.S. Forest Service "Trails Management Handbook" and "Standard Specifications for Construction of Trails."

    d. Steep slopes may be used for approved surface water conveyance. Installation techniques shall minimize disturbance to the slope and vegetation.

2. Limited exemptions:

    a. Slopes 40 percent and steeper with a vertical elevation change of up to 20 feet may be exempted from the provisions of this section based on City review of a soils report prepared by a geologist, civil or geotechnical engineer that demonstrates that no adverse impact will result from the exemption.

b. Any slope that has been created through previous, legal grading activities may be regarded as part of an approved development proposal. Any slope which remains equal to or in excess of 40 percent following site development shall be subject to the development standards for slopes over 40 percent.

c. Unless otherwise specified, the following restrictions apply to vegetation removal or introduction in steep slopes, landslide hazard areas and their buffers:

i. There shall be no removal of any vegetation from any steep slope hazard area or buffer except for the limited plant removal necessary for surveying purposes and for the removal of hazard trees or for view corridors as set forth in regulation 5.1.A.1.b of this appendix.

ii. Harvesting of timber and reforestation to prevent erosion is permitted.

iii. On slopes that have been disturbed by human activity or infested by noxious weeds, replacement with native species or other appropriate vegetation may be allowed subject to approval by the City.

B. Slopes 22 to 39 percent – development standards.

1. A landslide hazard area, located on a slope less than 40 percent, may only be altered in the following circumstances:

a. If the development proposal will not decrease slope stability on adjacent properties;

b. If the landslide hazard area can be modified or the development proposal can be designed so the landslide hazard to the project and adjacent property is eliminated or mitigated and the development proposal on that site is certified as safe by a geologist, civil or geotechnical engineer; and

c. If the development proposal will not increase surface water discharge or sedimentation to adjacent properties.

2. Where such alterations are approved, buffers will not be required.

3. Single-family and duplex residential structures shall be exempt from the requirements of regulation 5.1.B of this appendix.

C. A minimum buffer of 25 feet shall be established from all edges of a landslide hazard area and from landslide hazard areas with slopes less than 40 percent unless these areas are

approved for alteration pursuant to regulation 5.1.B.2 of this appendix. Existing native vegetation within 10 feet of the buffer area shall be maintained.

D. When the geotechnical report demonstrates that a lesser buffer distance, and design and engineering solutions, will meet the intent of this appendix, such reduced buffer and design and engineering solutions may be permitted. Should the geotechnical report indicate that a greater buffer than that required by regulation 5.1.C of this appendix is needed to meet the intent of this appendix, the greater buffer shall be required.

E. Building setback lines of eight feet shall be required from the edge of a landslide hazard area.

5.2 Erosion hazard areas

A. Erosion hazard areas are identified by the presence of vegetative cover, soil texture, slope, and rainfall patterns, or human-induced changes to such characteristics, which create site conditions that are vulnerable to erosion.

B. Erosion hazard areas are those areas that have a severe or very-severe erosion potential as detailed in the soil descriptions contained in the most recent edition of the "Soil Survey of Grays harbor County Area, Washington," Soil Conservation Service, USDA.

C. For all regulated activities proposed within erosion hazard areas, a geotechnical report prepared by a professional engineer licensed with the state of Washington with expertise in geotechnical or civil engineering shall be submitted. Geotechnical reports shall meet the requirements for a critical area special study contained subsection 1.6 of this appendix, Critical area special study. Provided, where an applicant can demonstrate through submittal of a geotechnical assessment that there are no erosion hazards on-site, the requirement for the geotechnical report may be waived. The geotechnical assessment shall include at a minimum the following:

1. A discussion of the surface and subsurface geologic conditions of the site;

2. A site plan of the area delineating all areas of the site subject to landslide and erosion hazards, based on mapping and criteria referenced in regulations 5.2.A and 5.2.B of this appendix. The submittal must include a contour map of the proposed site, at a scale of one inch equals 200 feet. Slopes shall be clearly delineated for the ranges between 15 and 39 percent, and 40 percent or greater, including figures for aerial coverage of each slope category on site.

If the geotechnical assessment demonstrates, to the satisfaction of the Public Works Director, that the proposed site is not located in any erosion hazard area, based upon the criteria set forth in this subsection, then the requirements of this subsection shall not apply.

D. The Public Works Director shall evaluate all geotechnical reports for erosion hazard areas to ensure that the following standards are met:

1. Location and extent of development:

   a. Development shall be located to minimize disturbance and removal of vegetation;

   b. Structures shall be clustered where possible to reduce disturbance and maintain natural topographic character;

   c. Structures shall conform to the natural contours of the slope and foundations should be tiered where possible to conform to existing topography of the site.

2. Design of development:

   a. All development proposals shall be designed to minimize the footprint of building and other disturbed areas;

   b. All development shall be designed to minimize impervious lot coverage;

   c. Roads, walkways and parking areas shall be designed to parallel the natural contours;

   d. Access shall be in the least sensitive area of the site;

   e. A minimum buffer of 25 feet shall be established from all edges of an erosion hazard area;

   f. Building setback lines of eight feet shall be required from the edge of an erosion hazard area buffer.

5.3 Seismic hazard areas

A. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, or soil liquefaction.

B. Designation.

1. Seismic hazard areas are areas underlain by alluvial and recessional outwash surficial geologic units.

2. Seismic hazard areas are alluvial and recessional outwash units, if any, which are identified in any study that may be hereafter adopted by the City Council through formal action.

C. Standards.

1. For all regulated activities except the construction of a single-family residential structure proposed within seismic hazard areas, a geotechnical report prepared by a professional engineer licensed with the state with expertise in geotechnical or civil engineering shall be submitted. Provided, where an applicant can demonstrate through submittal of a geotechnical assessment that there are no seismic hazards on site or that the seismic hazard can be mitigated, the requirement for the geotechnical report may be waived. Single-family and duplex residential structures shall be exempt from the requirements of subsection 5.3 this appendix, Seismic hazard areas. Single-family and duplex residential structures shall meet appropriate Uniform Building Code requirements for seismic hazard areas.

   a. Geotechnical reports:

      i. The geotechnical report shall address the existing geologic, topographic, and hydraulic conditions on a site, including an evaluation of the ability of the site to accommodate the proposed activity.

      ii. The geotechnical report shall include at a minimum the following:

         (a) A discussion of the surface and subsurface geologic conditions of the site;

         (b) A site plan of the area delineating all areas of the property subject to seismic hazards, based on mapping and criteria referenced above;

         (c) A discussion of mitigation measures that can be taken to eliminate seismic risks associated with the underlying surficial geology; and

         (d) An evaluation of the effectiveness of the proposed mitigation measures.

iii. The development proposal may be approved, approved with conditions, or denied based on the Public Works Director's evaluation of the ability of the proposed mitigation measures to eliminate seismic risks associated with the underlying surficial geology.

b. Geotechnical assessments:

i. Should the Public Works Director question the presence of seismic hazard areas on the site, the applicant may submit a geotechnical assessment prepared by a professional engineer licensed with the state with expertise in geotechnical engineering.

ii. The geotechnical assessment shall include at a minimum the following:

(a) A discussion of the surface and subsurface geologic conditions of the site;

(b) A site plan of the area delineating all areas of the site subject to seismic hazards, based on mapping and criteria referenced above. If the geotechnical assessment demonstrates, to the satisfaction of the Public Works Director, that the proposed site is not located in any seismic hazard areas, based upon the criteria set forth above, then the requirements of this section shall not apply.

2. For all proposed short subdivision and subdivision proposals within seismic hazard areas, the applicant shall include a note on the face of the plat. The note shall be as set forth below. The note shall be recorded prior to final plat approval of any short subdivision or subdivision.

> Notice: This site lies within a seismic hazard area as defined in City of McCleary's shoreline critical areas regulations. Restrictions on use or alteration of the site may exist due to natural conditions of the site and resulting regulation.

6 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

6.1 Purpose

A. The City shall regulate development activities in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to

prevent isolated subpopulations. In addition, the City shall consider conserving or protecting anadromous fisheries in Wildcat Creek.

6.2 Designation

A. Fish and wildlife habitat conservation areas are those areas identified as being of critical importance to the maintenance of fish, wildlife, and plant species, including:

1. Areas with which federally or state listed endangered and threatened species of fish, wildlife, and plants have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

2. Waters of the state, including all water bodies classified by the Washington Department of Natural Resources water typing classification system as detailed in WAC 222-16-030.

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

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

5. State priority habitats and areas associated with state priority species. Priority habitats and species are identified by the Washington State Department of Fish and Wildlife.

6. Areas of rare plant species and high quality ecosystems identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

7. Land useful or essential for preserving connections between habitat blocks and open spaces.

B. The approximate locations and extents of fish and wildlife habitat conservation areas may be shown on, but shall not be limited to, the following list of maps. The maps are for reference only and do not provide a final critical area designation.

1. Washington State Department of Fish and Wildlife priority habitats and species maps.

2. Washington State Department of Natural Resources water type maps.

3. Washington State Department of Natural Resources Natural Heritage Program maps.

4. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission.

5. Washington State Department of Natural Resources State natural area preserves and natural resource conservation area maps.

6.3 Critical area special study for fish & wildlife habitat conservation areas

A. For all regulated activities that are proposed within a distance of a waterbody equal to or less than the potentially required buffer and setback, or that are likely to affect other fish and wildlife habitat conservation areas, a habitat assessment shall be submitted.

B. Habitat assessment requirements.

1. The habitat assessment shall be prepared by a qualified professional who is a wildlife biologist with a degree in biology or zoology. At a minimum, the habitat assessment shall contain:

   a. A discussion of species or habitats known or expected to be located on or within 200 feet of the site, including state or federal endangered and threatened species.

   b. A site plan that clearly identifies and delineates critical fish and wildlife habitats found within 200 feet of the site.

   c. A discussion of the project's potential effects on fish and wildlife habitat.

   d. A discussion of any federal, state, or local special management recommendations that have been developed for species or habitats located on the site.

   e. A discussion of measures including avoidance, minimization, and mitigation proposed to preserve existing habitats.

   f. An evaluation of the effectiveness of any proposed mitigation measures.

   g. A discussion of ongoing management practices that will protect fish and wildlife habitats after the project site has been fully developed, including proposed monitoring and maintenance programs.

C. Habitat assessments may be forwarded to the Washington State Department of Fish and Wildlife and similar appropriate state and federal agencies for their comments at the discretion of the City.

6.4 Standards

A. The City may condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffer, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the most current, accurate, and complete scientific or technical information available and may include, but are not limited to, the following:

1. Establishment of buffer zones.
2. Preservation of critically important vegetation and/or habitat features.
3. Limitation of access to the habitat area.
4. Seasonal restriction of construction activities.

B. A buffer, consisting of undisturbed natural vegetation, shall be required along all streams, lakes, and ponds classified by the Washington State Department of Natural Resources water typing classification system (WAC 222-16-030). The buffer shall extend landward from the ordinary high water mark of the water body. The buffer widths shall be as listed in Table B6-1 and Table B6-2 below.

Table B6-1. Standard shoreline waterbody buffers

Water Type	Environment Designation	Buffer[1]	Structure Setback[1,2]
S (1)	Shoreline Residential	NA	NA
	Urban Conservancy	150 feet	10 feet

[1] Buffer and setback do not apply to water-dependent uses. Mitigation sequencing (see regulation 1.7.B of this appendix) must be demonstrated and any adverse impacts to ecological functions mitigated.
[2] Structure setback measured from edge of buffer.

Table B6-2. Other standard waterbody buffers

Water Type	Buffer[1]	Structure Setback[1]
F (2,3)	100 feet	10 feet
Np (4)	50 feet	10 feet
Ns (5)	50 feet	10 feet
[1] Structure setback measured from edge of buffer.		

C. The Public Works Director may allow the recommended habitat area buffer width to be averaged in accordance with a critical area report, the most current, accurate, and complete scientific or technical information available, and the management recommendations issued by the Washington State Department of Fish and Wildlife, only if:

1. It will not reduce stream or habitat functions;
2. It will not adversely affect salmonid habitat;
3. It will provide additional natural resource protection, such as buffer enhancement;
4. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
5. The buffer area width is not reduced by more than 25 percent in any location.

D. The following alterations may be made within the buffer upon approval of a plan by the Public Works Director, when consistent with all other provisions of the City's Shoreline Master Program:

1. Outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;
2. Flood control activities;
3. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas;
4. Minor modification of existing serviceable structures within a buffer zone;
5. Trails, footbridges, and water-related public park facilities;
6. Utility lines and related facilities.

E. Signs and fencing of fish and wildlife habitat conservation areas.

1. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the Public Works Director prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. As a condition of any permit or authorization issued pursuant to the City's Shoreline Master Program, the Public Works Director may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

    a. Permanent signs must be made of a metal face and attached to a metal post or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever interval is less and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Public Works Director:

Habitat Conservation Area Do Not Disturb Contact the City of McCleary Regarding Uses and Restrictions

3. Fencing.

    a. The Public Works Director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Public Works Director shall condition any permit or authorization issued pursuant to the City's Shoreline Master Program to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer. Fencing installed as part of a proposed activity or as required shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.