CHAPTER 8
REGULATIONS FOR ALL SHORELINE USES, ACTIVITIES AND DESIGNATIONS

Introduction
The regulations in this chapter are intended to implement the Shoreline Goals and Policies (See Chapter 6) and the shoreline-designation-specific policies (See Chapter 7).

All shoreline uses and activities, even those that are exempt from the requirement to obtain a shoreline substantial development permit, and regardless of the Shoreline Environment in which they are undertaken, must conform to all of the applicable policies and regulations listed in this SMP. For example, a residential development project that includes docks and roads needs to comply with the policies and regulations related to docks and roads, clearing and grading as well as those related to residential development.

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The following regulations apply to all shoreline uses and activities in all shoreline designations, unless otherwise noted.

8.02 A. General

8.01 A. 1. Regulation of private property to implement any SMP goals such as public access and protection of ecological functions must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes.

8.01 A. 2. Rights reserved or otherwise held by Indian Tribes pursuant to Treaties, Executive Orders, or Statues, including right to hunt, fish, gather, and the right to reserved water, shall not be impaired or limited by any action taken or authorized by the City under its Shoreline Master Program, and all rights shall be accommodated.

8.01 A. 3. All development or use activity which occurs within the shoreline areas of Pateros, whether it requires a permit or not, must be consistent (in design, development and operation) with the intent of the Act, conform to chapter RCW 90.58, the Shoreline Management Act, this master program, current comprehensive plans, all applicable local regulations (including current zoning, floodplain, subdivision, SEPA, health, sanitation, and building ordinances or codes), and any applicable state and federal regulations.

8.01 A. 4. Emergency construction may be permitted subject to WAC 173-27-040(2)(d) (“Developments exempt from substantial development permit requirement”), when, as determined by Okanogan County Emergency Services or other formally designated local official in consultation with the Shoreline Administrator, that life and/or property is in danger. Emergency construction must be consistent with the policies of chapter 90.58 RCW and this master program and with the regulations for Shoreline Modification (Section 8.03), including Shoreline Stabilization (Section 8.03 E), herein. Prior to emergency construction, the landowner must agree that, upon abatement of the emergency situation any new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27, or this master program shall be obtained. Mitigation pursuant to consultation with appropriate resource agencies shall be required for any permit issued after an emergency action. Regular flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

8.01 A. 5. The provisions of this Master Program do not require modification of or limitations on agricultural activities legally underway on agricultural lands as of the date of adoption of this SMP.
8.01 A. 6. All shoreline and shoreland uses and activities shall be located and designed to minimize or prevent the need for shoreline stabilization measures, flood protection works, filling, or substantial site re-grading. The use of car bodies, scraps of building materials, tires, asphalt or concrete from street work, or any discarded pieces of equipment, appliances or other debris for the stabilization of shorelines is prohibited. See Shoreline Modification Regulations (Section 8.03), for specific shoreline stabilization regulations and standards.

8.01 A. 7. The disposal or dumping of solid waste is strictly prohibited in all shoreline and shoreland areas, except in litter containers, which shall be regularly emptied, with the contents collected for transportation to an approved sanitary landfill or transfer station.

8.01 A. 8. Dumping and/or burning of residential, commercial or municipal yard waste within the Zone 1 Vegetation Buffer of the shoreline setback is prohibited in all shoreline designations.

8.01 A. 9. Where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost, bridges, utility lines, and other public utility and transportation structures may be allowed within the channel migration zone or floodway. Where such structures are allowed, mitigation shall address impacted functions and processes throughout the affected water body, including effects upstream and downstream of the project site, and shall be adequate to ensure no net loss of shoreline ecological function. Impacts to views and vistas must also be mitigated.

8.01 A. 10. No development designed for human habitation (e.g. houseboats, floating homes or cantilever type construction) is permitted on or over water.

8.01 A. 11. All shoreline development shall be conducted so as to minimize the effects on water quality from the addition of suspended solids, leaching of contaminants, or disturbances to habitat, and shall be consistent with this Master Program as well as the requirements of applicable regulatory agencies, including but not limited to the Washington departments of Ecology and of Fish and Wildlife and the U. S. Army Corps of Engineers. See following sections for activity specific regulations and standards.

8.01 A. 12. In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring habitats and species.

8.01 A. 13. All uses and activities, including those exempt from the requirement to obtain a shoreline substantial development permit, shall adhere to all required setbacks and other development standards, and shall retain all required buffers, in accordance with the provisions of this master program unless the use or activity is granted a variance.

8.01 A. 14. Lot frontage shall be measured along the OHWM.

8.01 A. 15. Lot coverage is the percentage of the parcel to be covered with impervious surfaces consistent with local zoning regulations.

8.01 A. 16. No new development shall be allowed in wetlands, shoreline vegetation conservation areas or their buffers without following mitigation sequencing as regulated by Section 11.01(B)(3)(h)(1) unless exempted by the SMP.
8.01 A. 17. Vegetation Conservation

8.01 A. 17. a. Restoration or enhancement of any shoreline area that has been disturbed or degraded shall use plant materials from the recommended list (Appendix E) or other species approved by agencies or organizations operating within the jurisdiction, such as the departments of Ecology, County Extension, Fish and Wildlife or the Native Plant Society.

8.01 A. 17. b. Stabilization of erosion-prone surfaces along shorelines shall primarily use vegetative, non-structural means and shall comply with the provisions of Section 8.03 E. More intensive measures may be permitted providing the project will result in no net loss in shoreline function.

8.01 A. 17. c. Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited. This does not preclude the removal of noxious weeds, provided a mitigation management plan is submitted and approved.

8.01 A. 17. d. Weed abatement shall comply with all provisions of this SMP.

8.01 A. 17. e. Non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted in compliance with View Corridor provisions of Section 8.02 K. 1. u.

8.01 A. 17. f. Permits issued for projects in ecologically degraded areas shall include a condition that appropriate shoreline vegetation shall be planted or enhanced, to contribute to the restoration of ecological processes and functions.

8.01 A. 17. g. If weather does not permit immediate restoration of disturbed areas, replanting shall be completed during the next planting season, and the soil shall be protected until replanting is complete.

8.01 A. 17. h. Vegetation from the recommended list (Appendix E) or other species authorized by the local government with jurisdiction shall be used. Native plants are preferred. Plants that may compromise shoreline values shall be prohibited. If necessary, a temporary sterile cover crop (e.g., a sterile non-persistent member of the grass family such sterile Triticale, barley, or oats) shall be planted to prevent erosion during the establishment period; said cover crop shall be maintained until the permanent vegetation is sufficiently established to prevent erosion.

8.01 A. 17. i. Replanted areas shall be maintained until desired vegetation is well established (a minimum of three years). In the case of transportation, utility, or other capital facility construction, the agency or developer constructing the facility shall also be responsible for maintaining the vegetation until it is established.

8.01 A. 18. Non-Wetland Setbacks and buffers (for wetland buffers see Section 8.01 B. 3. e.):

8.01 A. 18. a. Shoreline buffers in shoreline areas shall be comprised of a vegetation and use buffers as follows:

8.01 A. 18. a. 1) Zone 1 - Vegetation Buffer. The area one-half the distance of the setback (setbacks are listed in Table 8.1), in all shoreline areas is designated as a Vegetation Buffer. The vegetation buffer serves as restrictive protection zone for all

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1 - Shoreline buffers in this SMP shall serve as Riparian fish and wildlife habitat buffers.
shoreline functions and values in general and fish and wildlife habitat specifically. In these areas, existing native vegetation or vegetation from the recommended list (Appendix E) must be maintained and protected, except as provided for in Public Access – View Corridor Provisions (Section 8.02 K. 1. u.) and Shoreline Modification Regulations - General (Section 8.03A), Clearing and Grading (Section 8.03 B).

8.01 A. 18. a. 2) Zone 2 - Use Buffer. The area between the Zone 1 Vegetation Buffer and setback line (setbacks are listed in Table 8.1) in all shoreline areas is designated as Zone 2 Use Buffer. In these areas, removal of existing native vegetation shall be limited as provided in Table 8.1 and uses limited to low intensity recreation, agricultural, accessory residential uses and accessory water-dependent and accessory water-related commercial uses.

8.01 A. 18. b  Measurement:

8.01 A. 18. b. 1) All setbacks and Zone 1, Vegetation buffers shall be measured on a horizontal plane from the ordinary-high-water-mark (OHWM) or from the side property line as appropriate.

8.01 A. 18. b. 2) Zone 2, Use buffers shall be measured on a horizontal plane from the landward side of the vegetation buffer.

8.01 A. 18. c. All non-wetland buffers, lot frontage and lot coverage requirements shall be as set forth in Table 8.1, except as follows or noted as exempt in Section 8.01 A. 18. d. below):

8.01 A. 18. c. 1) Standard shoreline setbacks and/or Zone 1 or 2 buffers and/or lot coverage may be reduced by using procedures set forth in Section 8.01(A)(18)(c)(2) Buffer width averaging or in 8.01 A. 18. c. 3) Administrative buffer reduction. Lot coverage may be increased by using Section 8.01 A. 18. c. 4) Administrative Lot Coverage Increase.

8.01 A. 18. c. 2) Administrative Buffer Width Averaging. The total required shoreline buffer (Zone 1+ Zone 2) width may be modified by the Administrator for existing lots of record in place at the time of adoption of this Program by averaging buffer widths based on a critical areas report, mitigation management plan prepared by a qualified professional. A SEPA document may also be required depending on SEPA requirements found in WAC 197-11 and Pateros’s Municipal Code Chapter 14. Buffer width averaging shall only be allowed where the applicant demonstrates all of the following:

   i. The project site and adjoining area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;

   ii. The width averaging shall not adversely affect the project site and adjoining area and buffer’s functional value;

   iii. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging unless a standard reduction is permitted through an administrative reduction as specified in Administrative Buffer Reduction (Section 8.01 A. 18. c.3));

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2 - Vegetation buffers are required for all shoreline developments in all environments.
iv. The minimum buffer width at its narrowest point shall not be less than seventy-five (75%) percent of the buffer width established under Table 8.1.

v. Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered under the Section Variances.

8.01 A. 18. c. 3) Administrative Buffer Reduction. The Administrator shall have the authority to reduce buffer widths established in Table 8.1 on a case-by-case basis; provided that the general standards for avoidance and minimization in Section 11.01 B. 3. h. 1) i shall apply, based on a critical areas report, mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:

i. The buffer reduction shall not result in a net loss of functions of the habitat buffer.

ii. The maximum buffer width reduction allowed shall not exceed twenty-five (25%) percent total required buffer established in Table 8.1.

iii. The buffer width reduction is contingent upon the submittal and approval of a critical areas report, mitigation management plan and SEPA document in conformance with Sections 11.01 B. 3. d., 11.01 B. 3 h.

iv. Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered under the Section Variances.

v. In cases where there is less than 25' of existing riparian vegetation, the width of the buffers may be reduced, subject to the buffer Width Averaging (Section 8.01 A. 18. c. 2)) or Administrative Buffer Reduction (Section 8.01 A. 18. c. 3)) standards established above. To support a claim that the Buffer should be reduced, a planting plan shall be submitted in combination with a mitigation management plan (Section 11.01 B. 3. h) and SEPA document prepared by a qualified professional and submitted by the applicant. The administrator’s decision may be based on, but is not limited to, photographs of existing site conditions, and opinions of qualified professionals. In no case shall the Zone 1 buffer be decreased to less than 10’ or the total slope of the bank, whichever is greater. There is an exception for the water dependent portion of the development which is allowed to be located directly adjacent to the OHWM.

8.01 A. 18. c. 4) Administrative Lot Coverage Increase. The Administrator shall have the authority to increase the lot coverage allowance in Table 8.1 on a case-by-case basis; provided that the general standards for avoidance and minimization in Section 11.01 B. 3. h. 1) (i) shall apply, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:
i. The increase in lot coverage will not increase surface water runoff, either onto other properties or toward the shoreline.

ii. The applicant is implementing best management techniques for the parcel’s stormwater handling.

iii. No net loss of ecological functions and values will occur.

8.01 A. 18. d. Activities Exempt from Buffers and Setbacks: The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, and provided further that they comply with all the applicable regulations herein:

8.01 A. 18. d. 1) Water Dependent Development: Those portions of approved water dependent development that requires a location directly adjacent to the ordinary high water mark of streams, rivers, lakes, ponds, associated wetlands, and/or within their associated buffers. This exception does not eliminate the proponents need to apply mitigation sequencing or the need to provide mitigation for development’s impacts.

8.01 A. 18. d. 2) Modifications Necessary for Agency or Court Compliance: Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or court, when otherwise consistent with the Shoreline Master Program, provided that the reviewing official determines that:

i. The facility cannot meet the dimensional standard and accomplish the state, federal or court ordered modifications necessary to bring it into compliance;

ii. The facility modifications are located, designed, and constructed to meet specified required modification standards necessary while complying with the mitigation sequencing and minimizing damage to ecological functions and values of the critical area and/or shoreline; and

iii. The modification follows necessary provisions for non-conforming development and uses.

8.01 A. 18. d. 3) Shared Moorage: Shared moorages shall not be subject to side yard setbacks when located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

8.01 A. 18. e. Buffer Exemption Criteria: As determined by the Administrator, for development proposed on sites separated from the shoreline by intervening, and lawfully created public roads, railroads, or an intervening parcel under separate ownership, the requirements of this code for a vegetation buffer may be waived. For the purposes of this section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:

8.01 A. 18. e. 1) Separate the subject upland property from the water body due to their width or depth; and

8.01 A. 18. e. 2) Substantially prevent or impair delivery of most ecological
functions from the subject upland property to the water body;

**8.01 A. 18. e. 3)** Be greater than 30’ in width, measured perpendicularly from the OHWM of the Shoreline; and

**8.01 A. 18. e. 4)** Be in separate ownership, which has not been subdivided in the last 5 yrs and the applicant does not have a vested interest in the waterward intervening parcel; and

**8.01 A. 18. e. 5)** Be developed; the Buffer Exemption shall not be allowed if the intervening parcel is not developed.

**8.01 A. 19.** All clearing and grading activities shall be limited to the minimum necessary for the allowed or permitted development and shall comply with the provisions of Tables 8.1 and 8.3 and the regulations in Section 8.02 K. 1. u., and Sections 8.03 A, B and G.

**8.01 A. 20.** The city of Pateros shall give preference to biological or mechanical means rather than herbicides or insecticides for weed and pest control in shoreline areas. When agricultural chemicals, fertilizers and other spray materials are used, provisions shall be made to minimize their entry into any body of water by following guidance found in Eastern Washington Storm Water manual and seeking guidance provided by Washington State Dept of Agriculture. Spraying over open water is prohibited except to control known risks to public health or as approved by the State for treatment of aquatic weeds. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

**8.01 A. 21.** All shoreline uses and activities shall comply with the Storm Water Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended). Specific requirements include, but are not limited to:

**8.01 A. 21. a.** Solid and liquid wastes, untreated effluents, oil, chemicals, and other hazardous materials shall not be allowed to enter any body of water or to be discharged onto land. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

**8.01 A. 21. b.** All shoreline uses and activities in all shoreline designations, both during construction and for the life of the project, shall use storm water best management practices to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving water quality and shoreline ecological functions are not adversely affected. Such measures may include but are not limited to low impact development, dikes, catch basins, settling ponds, oil/water separators, grassy swales, interceptor drains, and landscaped buffers. All measures shall be adequately maintained to insure proper functioning over time. The *Storm Water Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, as amended) shall provide the preferred guidance for surface water runoff best management practices.

**8.01 A. 22.** All shoreline areas to be disturbed by proposed individual uses and developments in all shoreline designations which cause adverse environmental impacts to occur to shoreline functions shall be restored in compliance with an approved mitigation management plan as found in Chapter 11.01(B)(3)(h)(1) and be subject to posting a reclamation bond. Vegetation from the recommended list (Appendix E) or other species
authorized by the City shall be used. Planting of non-native plant species shall be prohibited in Zone 1 buffer areas. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The owner, manager, agency or developer maintaining the facility/parcel shall also be responsible for maintaining the vegetation until it is established. See Section 8.01 A.16. Vegetation Conservation for specific regulations and standards.
**TABLE 8.1 SHORELINE DEVELOPMENT STANDARDS**

All uses and activities must comply with all applicable standards for the shoreline designation where the use or activity will occur. All development standards are subject to modification based on a site specific assessment, but in no case shall the standards be reduced greater than 25% of the standards stated below without the approval of a Shoreline Variance.

<table>
<thead>
<tr>
<th>Standards</th>
<th>Aquatic</th>
<th>Natural</th>
<th>Shoreline Recreation</th>
<th>Urban Conservancy</th>
<th>Shoreline Residential</th>
<th>High Intensity</th>
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<tbody>
<tr>
<td><strong>Zone 1 + 2 Combined Vegetation and Use Buffer Width and Setback</strong>³</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Non-Water Dependent or Oriented Uses and Activities</td>
<td>N/A</td>
<td>200'</td>
<td>80'</td>
<td>100’</td>
<td>50’</td>
<td>30’</td>
</tr>
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<td>200’</td>
<td>50’</td>
<td>80’</td>
<td>50’</td>
<td>25’</td>
</tr>
<tr>
<td>Water Dependent Uses and Activities⁵</td>
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<td>200’</td>
<td>0’</td>
<td>0’</td>
<td>0’</td>
<td>0’</td>
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<td><strong>Zone 1 Vegetative Buffer Width</strong>⁶</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Water Dependent or Oriented Uses and Activities</td>
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<td>40’</td>
<td>50’</td>
<td>25’</td>
<td>15’</td>
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<td>25’</td>
<td>40’</td>
<td>25’</td>
<td>12.5’</td>
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<td>0’</td>
<td>0’</td>
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<td>0’</td>
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<td>% of Vegetation Buffer that may be altered for view corridor²</td>
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<td>N/A</td>
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<td>10%</td>
<td>25%</td>
<td>30%</td>
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<td><strong>Zone 2 Use Buffer Width</strong>⁸</td>
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<td>40’</td>
<td>50’</td>
<td>25’</td>
<td>15’</td>
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<td>% of Use Buffer that may be altered in total for allowed uses and view corridors</td>
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<td>40%</td>
<td>20%</td>
<td>50%</td>
<td>60%</td>
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<td><strong>Dimensions/Lot Coverage Requirements</strong></td>
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<td>Minimum Lot size (acres)⁹</td>
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<td>1</td>
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<td>2,500 sq ft</td>
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<td>Minimum Water Frontage¹⁰</td>
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<td>N/A</td>
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<td>100’</td>
<td>70’</td>
<td>50’</td>
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<tr>
<td>Maximum lot Coverage</td>
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<td>40%</td>
<td>50%</td>
<td>50%</td>
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<td>5’</td>
<td>5’</td>
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<td>0</td>
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<td><strong>Maximum Structure Height</strong></td>
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<td></td>
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<td>35’</td>
<td>35’</td>
<td>35’</td>
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<tr>
<td>Water-Oriented Uses and Activities</td>
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<td>N/A</td>
<td>25’</td>
<td>25’</td>
<td>25’</td>
<td>35’</td>
</tr>
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<td>Water Dependent Uses and Activities</td>
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<td>N/A</td>
<td>20’</td>
<td>20’</td>
<td>20’</td>
<td>35’</td>
</tr>
</tbody>
</table>

8.01 B. Critical Areas

³ The Zone 1 buffer encompasses all of the shoreline jurisdiction (200’), so the use setback is equal to 0’, buffer averaging and buffer reduction are not allowed in the Natural Designation. Zone 1 + Zone 2 setback = 200’.

⁴ Shoreline buffers in this SMP shall serve as minimum Riparian fish and wildlife habitat buffers.

⁵ The setback may be reduced to 0’ for those water-dependent uses (e.g. aquaculture, marinas, boat launches) that require location adjoining the water, but in all cases such a setback shall be limited to the smallest area possible.

⁶ The Zone 1 Vegetation Buffer is 50% of the setback.

⁷ Amount of shoreline vegetation that may be altered is the percentage in Table 8.1 or 30’ whichever is less.

⁸ The area between the Vegetation Buffer and Setback intended for low impact uses and activities subject to standards

⁹ Minimum lot size may be increased based on applicable comprehensive plan and zoning regulations, but in no case shall be reduced without the approval of a variance. In addition minimum lot size only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing conforming parcels.

¹⁰ Minimum water frontage only applies to lots or parcels created subsequent to the date of adoption of this SMP, lots existing at the time of adoption shall be considered existing conforming parcels.
Critical areas (see Maps in Appendix C) within shoreline areas shall be protected using the regulations herein unless otherwise specified in this section. All uses and activities within identified critical areas (maps in Appendix C) shall require mitigation sequencing (Section 11.01 B. 3. h. 1) i) and may require a critical areas report and mitigation management plan (11.01 B. 3. d. 1) and 11.01. B. 3. h. 1) ii).

8.01 B. 1. **Purpose.** Provide for reasonable protection of the natural environment, resource lands and the general public health, safety and welfare, and satisfy the requirements of RCW 90.58 within shoreline jurisdiction by:

- **8.01 B. 1. a.** Establishing standards to ensure no net loss for critical areas within the shoreline jurisdiction of the Pateros Shoreline Master Program;
- **8.01 B. 1. b.** Protecting the general public, resources and facilities from injury, loss of life, property damage or financial loss due to flooding, landslides, or steep slopes failure;
- **8.01 B. 1. c.** Protecting unique, fragile and valuable elements of the environment including without limitation wildlife and its habitat;
- **8.01 B. 1. d.** Meeting the requirements of the National Flood Insurance program and maintaining Pateros as an eligible community for federal flood insurance benefits;
- **8.01 B. 1. e.** Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands, rivers and streams;
- **8.01 B. 1. f.** Providing appropriate guidance and protection measures for addressing the needs and concerns associated with resource lands and critical areas that help define the quality of life in Pateros;
- **8.01 B. 1. g.** Encouraging the retention of open space and development of recreational opportunities, conserving fish and wildlife habitat, and increasing access to natural resource lands and water; and
- **8.01 B. 1. h.** Implementing applicable mandated federal and state regulations.

8.01 B. 2. **Applicability.**

- **8.01 B. 2. a.** These critical area regulations shall apply as shoreline management regulations established by the city.
- **8.01 B. 2. b.** All land uses and/or development permit applications on all lots or parcels within shoreline jurisdictions in the city that contain critical areas as defined herein shall comply with the provisions of this chapter. No action shall be taken by any person that results in any alteration of any critical area except as consistent with the purposes, objectives and intent of these regulations.
- **8.01 B. 2. c.** Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area. Where it is determined that a designated critical area is located within the shoreline jurisdiction of the Pateros shoreline master program, the provisions herein and within Chapter 8 of this SMP will be used to provide protection to that particular critical area(s).
- **8.01 B. 2. d.** The city shall maintain reference maps that provide information on the general locations of critical areas, alerting the public and city officials of the potential presence of critical areas in shoreline jurisdiction. Since boundaries are generalized, the application of these regulations and the actual type, extent and boundaries of critical areas shall be determined and governed by the classification section established for each
critical area. In the event of any conflict between the critical area location or designation shown on the city’s maps and the criteria and standards established herein, or the site-specific conditions, the criteria, standards and/or site-specific conditions shall prevail.

8.01 B. 2. e. If a permit approval is requested for a development proposal that is located within or immediately adjacent to a critical area designated on the generalized reference maps within shoreline jurisdiction, the city shall review said proposal against the classification criteria found herein to determine the applicability of the regulations. The city may require additional analysis be provided by the applicant to assist in making this determination.

8.01 B. 3. Exemptions. The following activities are exempt from the provisions of this section, provided, that the work is conducted using best management practices and any unavoidable impact affecting the environment will be minimized.

8.01 B. 3. a. Existing and Ongoing Agricultural Activities. The activities cease to be existing when the area on which they were conducted has been converted to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program;

8.01 B. 3. b. Maintenance and operation of existing roads, streets, utilities and associated structures;

8.01 B. 3. c. Passive outdoor recreational activities including fishing, hunting, bird watching or walking/hiking, non-motorized boating and canoeing;

8.01 B. 3. d. Low intensity, passive impact of Educational and scientific research and

8.01 B. 3. e. Site investigation work necessary for initial land use applications such as surveys, soil logs and percolation tests, and special studies as required by this chapter;

8.01 B. 3. f. Emergency activities necessary to prevent an imminent threat or danger to public health or safety, or property. Any emergency action shall be undertaken only after inquiry and approval from the city;

8.01 B. 3. g. Remodeling or maintenance of existing structures,

8.01 B. 3. h. Routine maintenance of existing landscaping, within a resident's lot boundaries, including pruning, mowing, removal or diseased trees or other diseased vegetation and replacement of individual plants when necessary to maintain a unified landscape theme; and

8.01 B. 3. i. Control of noxious weeds that are included on the state noxious weed list (Chapter 16-750 WAC) by the recommended methods of the City agricultural extension agent.

8.01 B. 4. Reasonable use alternatives.

8.01 B. 4. a. These regulations for critical areas within shoreline jurisdiction are not intended to prevent a reasonable use of property. Where project proponents would seek a “Reasonable Use” exception to their proposal, they shall seek exception process and relief through the SMP Conditional Use or Variance Permit process.

8.01 B. 5. General provisions.

8.01 B. 5. a. In the event of any conflict between these regulations and any other regulations, that which provides greater protection to the critical area(s) shall apply.
The provisions of this section shall be the minimum requirements and shall be liberally interpreted to serve the purposes of this SMP.

The presence of any known critical areas on or within two hundred-fifty (250) feet of property that is the subject of a development permit shall be identified by the applicant in the application materials submitted to the city.

**8.01 B. 5. b.** The owner of any property with field-verified presence of critical areas or their buffers on which a development proposal is submitted shall file and record a notice with the Okanogan County Auditor, in a form approved by the city, that runs with the land prior to the city approving the requested development. The notice shall provide notice in the public record of the presence of a critical area and/or buffer, and shall also indicate that the property is subject to the provisions of this chapter and that limitations on actions in or affecting such areas may exist.

**8.01 B. 5. c.** In carrying out any of the provisions of this chapter, the city may utilize any available technical resources, with any associated costs being paid for by the applicant, including experts/professionals in a particular field, and maps and/or documents including without limitation the following:

8.01 B. 5. c. 1) Pateros generalized critical area maps;
8.01 B. 5. c. 2) Pateros shoreline master program maps;
8.01 B. 5. c. 3) Okanogan County Level I, Level II and Level III Habitat Maps;
8.01 B. 5. c. 4) US Fish and Wildlife Service National Wetlands Inventory;
8.01 B. 5. c. 5) U.S.G.S. 7.5 Minute Series Topographic Quadrangle Maps;
8.01 B. 5. c. 6) Aerial photos;
8.01 B. 5. c. 7) Approved special reports previously completed for a subject property;
8.01 B. 5. c. 8) City of Pateros comprehensive plan;
8.01 B. 5. c. 9) City of Pateros shoreline master program;
8.01 B. 5. c. 10) Okanogan County Soils Survey;
8.01 B. 5. c. 11) Federal Wetlands Delineation Manual (1987);
8.01 B. 5. c. 12) Washington State Wetlands Identification and Delineation Manual (WDOE #96-94, March 1997, as amended);
8.01 B. 5. c. 13) Washington State Wetlands Rating System for Eastern Washington-Revised (WDOE 04-06-015, as amended);
8.01 B. 5. c. 15) Management Recommendations for Washington’s Priority Habitats- Riparian, December 1997, as amended;
8.01 B. 5. c. 16) Priority Habitats and Species List, July 1999, as amended;
8.01 B. 6. **Special studies required.** If city staff determines that the site of a proposed development potentially includes, or is adjacent to, a critical area(s), the staff shall notify the applicant that a special study may be required. When required the expense of undertaking the special study(ies) shall be borne by the applicant. The applicant's choice of consultant or technical expert and the content, format and extent of the special study(ies) shall be approved by city staff.

8.01 B. 6. a. The requirement for special studies may be waived by city staff if there is substantial showing that:

8.01 B. 6. a. 1) There will be no alteration of the critical area(s) and/or the required buffer(s);

8.01 B. 6. a. 2) The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the comprehensive plan; and

8.01 B. 6. a. 3) The minimum standards of this chapter will be met.

8.01 B. 6. b. No special study is required for development proposals that are exempt from the provisions of this section as set forth in 8.01 B. 3.

8.01 B. 6. c. When required, a special study shall be conducted by a qualified professional who is knowledgeable about the specific critical area(s) in question, and approved by the city staff. In general any required special study shall contain at least the following information, in addition to any other specific information determined pertinent by city staff (specific plan and special study requirements are found in applicable Critical Area sections below):

8.01 B. 6. c. 1) A map, of a scale no smaller than one inch equals two hundred (200) feet, showing the existing features on the site, such as topography, vegetation, etc., and including the extent of any critical area(s), and the plan for the proposed activity showing the relationship to the location of the critical area(s);

8.01 B. 6. c. 2) A written analysis of the existing critical area(s) and a description of how the proposed development will or will not impact the ecological functions and values of the critical area(s); and

8.01 B. 6. c. 3) A description (written and/or graphic) of any proposed mitigation measures/activities to address impacts to the critical area(s).

8.01 B. 7. **General process.** The provisions of this section shall be implemented during the applicable review process for the requested permit approval, in accordance with the provisions of this SMP.

8.01 B. 8. **Surety/bonding.** If a development proposal is subject to mitigation, maintenance or monitoring plans, the city of Pateros, in a form acceptable to the city attorney, may require an assurance device or surety.
8.01. B. 9. Permit conditions.

8.01 B. 9. a. Through the applicable review process, the city of Pateros shall have the authority to attach such conditions to the granting of any approval under this section as deemed necessary to alleviate adverse impacts to critical area(s) and to carry out the provisions of this SMP. Such conditions of approval may include, but are not limited to the following:

8.01 B. 9. a. 1) Limitations on minimum lot sizes;
8.01 B. 9. a. 2) Provisions for additional buffers relative to the intensity of a use or activity;
8.01 B. 9. a. 3) Requirements and/or restrictions on the construction, size, location, bulk and/or height, etc., of structure(s);
8.01 B. 9. a. 4) Dedication of necessary easements for utilities, conservation, open space, etc.;
8.01 B. 9. a. 5) Imposition of easement agreements, sureties, deed restrictions, covenants, etc., on the future use and/or division of land;
8.01 B. 9. a. 6) Limitations on the removal of existing vegetation;
8.01 B. 9. a. 7) Additional measures to address issues such as erosion control, storm water management, filling, grading, etc.;
8.01 B. 9. a. 8) Development of a plan to create, enhance, or restore damaged or degraded critical area(s) on and/or off site; and
8.01 B. 9. a. 9) Any monitoring and/or maintenance plans necessary to implement the provisions of this chapter.

8.01 B. 10. Enforcement. Violation of the provisions of this section, or failure to comply with any of its requirements, shall be subject to enforcement actions by the city of Pateros that are authorized in the zoning ordinance, subdivision ordinance, shoreline master program or any other land use regulation of the city of Pateros. The city attorney, when authorized by the mayor and council, shall seek penalties, remedies, injunctions and other legal sanctions necessary for the enforcement of this title. In addition to costs allowed by these regulations, the prevailing party in an enforcement action may, at the court's discretion, be allowed interest and reasonable attorney's fees. The city attorney shall seek such costs, interest, and the reasonable attorney's fees on behalf of the city of Pateros when the city is the party.

8.01 B. 11. Aquifer recharge areas. Development, uses and activities within identified aquifer recharge areas (map in Appendix C) shall comply with the regulations contained in this master program and be subject to best management practices in compliance with the Eastern Washington Storm Water Management Manual. Any discharges that negatively affect aquifer recharge area’s water quality are prohibited.

8.01 B. 11. a Classification. The following three-level classification scheme is used to determine the level of protection necessary for land areas:

8.01 B. 11. a. 1) Critical Potential. Rivers, creeks, wetlands, lakes and ponds; and lands that have been specifically identified as critical recharge areas based on reliable scientific data.
8.01 B. 11. a. 2) High Potential. Lands adjacent to rivers, creeks, wetlands, lakes and ponds that include soils that show permeability ratings in the City soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.

8.01 B. 11. a. 3) Moderate Potential. Lands with soils that show permeability ratings in the City soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.

8.01 B. 11. b. Standards. For aquifer recharge areas found inside the jurisdiction of the Pateros shoreline master program, the following standards for development shall be required in addition to the general provisions of this section and the requirements of the underlying zone:

8.01 B. 11. b. 1) Projects shall be developed which utilize site plans that minimize, to the greatest extent possible, the amount of impervious surfaces associated with the project;

8.01 B. 11. b. 2) On-site stormwater facilities shall be designed and installed that provide both detention and treatment of increased runoff associated with the development using Stormwater best management practices;

8.01 B. 11. b. 3) A hydrogeologic study may be required to assess impacts of the project on groundwater;

8.01 B. 11. b. 4) On-site sewage systems (septic tank and drainfield systems) are prohibited within the city of Pateros;

8.01 B. 11. b. 5) Underground storage tanks for fuel and/or hazardous materials that can contaminate the potable water resource are prohibited within any aquifer recharge area.

8.01 B. 12. Fish and wildlife habitat conservation areas. Development, uses and activities within or near identified fish and wildlife conservation areas and their buffer areas as identified in Table 8.1 (maps in Appendix C) shall comply with the regulations contained in this master program.

8.01 B. 12. a Authorized uses and activities. Uses and activities allowed within designated habitat conservation areas are those uses authorized by the Shoreline Master Program, subject to the provisions of this chapter.

8.01 B. 12. b. Identification.

8.01 B. 12. b. 1) All fish and wildlife habitat conservation areas shall be identified by the City to reflect the relative function, value and uniqueness of the habitat area as established through an approved habitat ranking evaluation submitted by an applicant for development occurring on a site, in accordance with this Program. The City may use the information sources in Section 8.01 B. 5 as guidance in identifying the presence of potential fish and wildlife habitat conservation areas and the subsequent need for a habitat boundary survey along with an onsite inspection, if necessary.

8.01 B. 12. b. 2) Fish and wildlife habitat conservation areas include:

i. Areas in which endangered, threatened, and sensitive species have a primary association;

ii. Habitats and species of local importance;
iii. Naturally occurring ponds under twenty acres and their submerged aquatic
beds that provide fish or wildlife habitat;

iv. Waters of the state;

v. Lakes, ponds, streams, and rivers planted with game fish by a governmental
or tribal entity;

vi. State natural area preserves and natural resource conservation areas;

vii. Riparian areas, Zone 1 and Zone 2 protection areas;

viii. Lakes 20 acres and greater in size with a water depth of 6’ or greater; or

ix. Intermittent and perennial streams.

x. Priority habitats and species as identified by the Washington State
Department of Fish and Wildlife Priority Habitats and Species Program.

8.01 B. 12. b. 3) Identification and regulation of all wetlands, lakes 20 acres or
greater in size with a depth less than 6’, lakes under 20 acres in size, and ponds, shall
be in accordance with this SMP.

8.01 B. 12. b. 4) Identification and regulation of ephemeral or intermittent
drainages which do not contain wetland or riparian habitat shall be in accordance
with this section.

8.01 B. 12. c. Designation. All existing areas of the City identified as noted on the
Map in Appendix C and as determined by the Administrator, are designated as fish and
wildlife habitat conservation areas. In addition to existing fish and wildlife habitat
conservation areas of the City identified as shown in Appendix C, the City may
designate additional species, habitats of local importance, and/or wildlife corridors as
follows:

8.01 B. 12. c. 1) In order to nominate an area, species, or corridor to the category
of Locally important, an individual or organization must:

i. Demonstrate a need for special consideration based on:

   (1) Declining population,

   (2) Sensitivity to habitat manipulation,

   (3) Commercial, recreational, cultural, or other special value, or

   (4) Maintenance of connectivity between habitat areas.

ii. Propose relevant management strategies considered effective and within the
scope of this chapter;

iii. Identify effects on property ownership and use; and

iv. Provide a map showing the species or habitat location(s).

8.01 B. 12. c. 2) Submitted proposals shall be reviewed by the City and may be
forwarded to the State Departments of Fish and Wildlife, Natural Resources, and/or
other local, state, federal, and/or Tribal agencies or experts for comments and
recommendations regarding accuracy of data and effectiveness of proposed
management strategies.

8.01 B. 12. c. 3) If the proposal is found to be complete, accurate, and consistent
with the purposes and intent of this chapter and the various goals and objectives of the The City’s Comprehensive Plan, the Growth Management Act, the Shoreline Management Act and this Program; the City Council will hold a public hearing to solicit comment. Approved nominations will then be processed as amendments to this Program in conformance with Chapter 11, in order to be considered as a designated locally important habitats, species, or corridors and if approved will be subject to the provisions of this chapter.

8.01 B. 12. d. Habitat boundary survey.

8.01 B. 12. d. 1) A wildlife habitat boundary survey and evaluation shall be conducted by a qualified professional biologist, as appropriate, who is knowledgeable of wildlife habitat within North Central Washington. The wildlife habitat boundary shall be field staked by the biologist and surveyed by a land surveyor for disclosure on all final plats, maps, etc.

8.01 B. 12. d. 2) The Administrator may waive the requirement for the survey for minor development if:

i. The proposed development is not within the extended proximity of the associated wildlife habitat;

ii. There is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures; and

iii. The applicant provides voluntary deed restrictions that are approved by the Administrator.

8.01 B. 12. d. 3) The wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.

8.01 B. 12. e. Fish/wildlife habitat management and mitigation plan.

8.01 B. 12. e. 1) A fish/wildlife habitat management and mitigation plan shall be prepared by a qualified professional biologist who is knowledgeable of fish and wildlife habitat within North Central Washington.

8.01 B. 12. e. 2) In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the water shed or sub-basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.

8.01 B. 12. e. 3) Where compensatory mitigation is necessary, the plan should seek to implement shoreline restoration objectives identified within the City’s Shoreline Restoration Plan, SMP Chapter 10.

8.01 B. 12. e. 4) The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, no net loss of ecological functions of the habitat conservation area and buffer.

8.01 B. 12. e. 5) The fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the
habitat conservation area and any associated buffer.

8.01 B. 12. c. 6) Performance Standards. The following performance standards shall apply to compensatory mitigation projects:

i. Mitigation planting survival will be 100% for the first year, and 80% for each of the 4 years following.

ii. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Administrator.

iii. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional, as approved by the Administrator. The design shall meet the specific needs of riparian and shrub steppe vegetation.

iv. Monitoring reports by the biologist must include verification that the planting areas have less than 20% total non-native /invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts.

v. Onsite monitoring and monitoring reports shall be submitted to The City Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. The length of time involved in monitoring and monitoring reports may be increased by the Administrator for a development project on a case-by-case basis when longer monitoring time is necessary to establish or re-establish functions and values of the mitigation site. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the fish and wildlife management and mitigation plan have been satisfied.

vi. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

vii. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after 1 year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the City may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carryover of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a
hearing with the the City Council to review conformance with the conditions of approval and to determine what actions may be appropriate.

viii. Prior to site development and or building permit issuance, a performance surety agreement must be entered into by the property owner and the City. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified professional biologist, including Washington State Sales Tax. The City must approve the quote for said improvements.

8.01 B. 12. f. General standards. The following minimum standards shall apply to all development activities occurring within designated habitat conservation areas and their associated buffers.

8.01 B. 12. f. 1) Except as permitted by this master program habitat conservation areas and buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the habitat conservation area and/or buffer are unavoidable, demonstrated by compliance with Chapters 8 and 11 of this master program. Impacts must be addressed with appropriate mitigation and enhancement measures as determined on a site-specific basis in conformance with Chapter 11 of this master program.

8.01 B. 12. f. 2) Habitat Conservation Areas.

i. Development occurring within a one thousand foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require a habitat management and mitigation plan.

ii. Cliff, cave and talus slope habitats shall have at least a fifty-foot buffer for safety and resource protection.

iii. Bald Eagles: an approved bald eagle management plan by the Washington Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle Protection Rules, WAC 232-12-292, as amended, satisfies the requirements of a habitat management and/or mitigation plan.

iv. Rocky Mountain Mule Deer Habitat: habitat connectivity and migration corridors for mule deer shall be considered in habitat management and/or mitigation plans.

v. Development in or over all surface waters shall require a habitat mitigation plan.

vi. Aquatic and Vegetation Conservation Protection Standards:

vii. Applicable to Zone 1 – and Zone 2 buffers - Except as provided in this Program, the minimum buffer and setback widths found in Chapter 8, Table 8.1 shall apply within the shoreline environment designations administered by the City.

8.01 B. 12. g. Specific standards. The following standards shall apply to the activity identified below, in addition to the general standards outlined in this Section.
8.01 B. 12. g. 1)  **Stream Crossings.** Expansion or construction of stream crossings may be authorized within a designated habitat conservation area and buffer, subject to the following minimum standards:

   i.  Bridges are required for streams which support salmonids;

   ii. All crossings using culverts shall use superspan or oversize culverts;

   iii. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;

   iv. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;

   v.  Crossings shall not diminish flood carrying capacity; and

   vi. Crossings shall serve multiple properties whenever possible.

8.01 B. 12. g. 2)  **Water dependant uses,** as defined by this Program, may be located within a habitat conservation area or buffer when the applicant or property owner can demonstrate compliance with Chapter 11 Mitigation Sequencing and Compensatory Mitigation of this SMP.

8.01 B. 12. g. 3)  **Trails and trail-related facilities.** Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within designated resource lands and critical areas, subject to the following minimum standards:

   i.  Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;

   ii. Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard;

   iii. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;

   iv. All facilities shall be constructed with materials complementary to the surrounding environment;

   v.  Trail facilities that parallel the shoreline may be located in the outer 25 percent the Zone 2, setback area and as allowed in the SMP, Chapter Table 8.1, percent alteration of Zone 2; and,

       (1) Commercial and Public trails shall be the minimum width necessary to meet the designed need, but in no case shall they exceed 10 feet in width

       (2) Private trails shall not exceed 4 feet in width;

   vi. Private trails that provide direct shoreline access (Perpendicular) shall not exceed 4 feet in width and shall be kept to the minimum number necessary to serve the intended purpose. Public Trail widths may be expanded in width to accommodate for necessary safety and accessibility;
vii. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.

viii. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

8.01 B. 12. g. 4) Developments authorized within a designated habitat conservation area or buffer resulting in a greater percentage of use than allowed by Chapter 8, Table 8.1 (Zone 2 Use Buffer Allowed Alterations), or those allowed within Zone 1 shall comply with the following minimum standards:

i. A habitat management and mitigation plan shall be required.

ii. Designated habitat conservation areas and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, non buildable lots, buffer areas or common areas. Ownership and control may be transferred to a homeowner’s association or designated as an easement or covenant encumbering the property.

iii. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as may be approved by the Administrator.

iv. Residential developments with the potential for two or more dwelling units shall disclose on the face of the plat whether the development will be served by joint use or community dock facilities or a combination thereof. The identification of intent to establish a joint-use or community dock location is not a substitute for permitting required in order to develop moorage facilities and in no way guarantees such an approval.

8.01 B. 12. g. 5) Standards. For fish and wildlife habitat conservation areas found inside the shoreline jurisdiction of the Pateros shoreline master program, the following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying zone:

i. The Washington State Department of Fish and Wildlife priority habitat and species management recommendations shall be consulted in developing specific measures to protect a specific project site;

ii. All projects shall comply with the applicable federal, state and local regulations regarding the species;

iii. As determined through the site-specific study, appropriate buffer distances shall be established and maintained;
iv. As determined through the site-specific study, mitigation measures shall be implemented that maintain the base line populations and reproduction rates for the particular species; and

v. As determined through the site-specific study, appropriate habitat conservation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described in Section 8.01 B. 8.

8.01 B. 13. **Wetlands.** Development, uses and activities allowed within designated wetlands (maps in Appendix C) or associated wetland buffers are those uses authorized by this Shoreline Master Program, and are subject to the provisions of this chapter in general and this section specifically.

8.01 B. 13. a. The purposes of this Section are to:

8.01 B. 13. a. 1) Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging ground water; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, and retention and transformation of sediments, nutrients, and toxicants.

8.01 B. 13. a. 2) Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout the shoreline areas of the city of Pateros.

8.01 B. 13. a. 3) Establish review procedures for development proposals in and adjacent to wetlands that lie within shoreline jurisdiction.

8.01 B. 13. b. Identification and Rating.

8.01 B. 13. b. 1) Wetlands shall be identified and delineated by a qualified wetland professional in accordance with the *Washington State Wetlands Identification and Delineation Manual* (Ecology Publication #96-94, or as revised and approved by Ecology). Wetland delineations are valid for five years and performed using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987, as amended); and the US Army Corps of Engineers. (2006) Regional Supplement to the 1987 Delineation Manual: Arid West Region. The City may use the following information sources as guidance in identifying the presence of wetlands and the subsequent need for a wetland delineation study;

i. Hydric soils, soils with significant soil inclusions, and "wet spots" identified within the local soil survey;

ii. National Wetlands Inventory;

iii. Previous wetland rating evaluation; and,

iv. On-site inspection

8.01 B. 13. b. 2) Rating. Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #04-06-015, or as revised and approved by Ecology).
i. Category I wetlands are: 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands; 3) bogs; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores of 70 points or more). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

ii. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 51-69 points).

iii. Category III wetlands are 1) vernal pools that are isolated and 2) wetlands with a moderate level of functions (scores between 30-50 points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

iv. Category IV wetlands have the lowest level of functions (scores fewer than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

8.01 B. 13. b. 3) Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant’s knowledge.

8.01 B. 13. c. Regulated Activities

8.01 B. 13. c. 1) For any regulated activity, a critical areas report or wetland critical areas report (see Chapter 11) may be required to support the requested activity.

8.01 B. 13. c. 2) The following activities are regulated if they occur in a regulated wetland or its buffer:

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

   ii. The dumping of, discharging of, or filling with any material.

   iii. The draining, flooding, or disturbing the water level or water table.

   iv. Pile driving.

   v. The placing of obstructions.

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

   vii. 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.

ix. Activities that result in:

1. A significant change of water temperature.
2. A significant change of physical or chemical characteristics of the sources of water to the wetland.
3. A significant change in the quantity, timing or duration of the water entering the wetland.
4. The introduction of pollutants.

8.01 B. 13. c. 3) Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

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

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

1. Located outside of the wetland and its buffer; and
2. Meets the minimum lot size requirements in Table 8.1.

8.01 B. 13. d) Exemptions and Allowed Uses in Wetlands

8.01 B. 13. d, 1) The following wetlands are exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process described in Chapter 11. They may be filled if impacts are fully mitigated based on provisions in Section 11.01 B. 3. h. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in Section 11.01 B. 3. d. must be submitted.

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

1. Are not associated with riparian areas or buffer
2. Are not part of a wetland mosaic
3. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance identified in the maps contained in Appendix C.
4. Are not a vernal pool
5. Are not an alkali wetland
6. Do not contain aspen stands

8.01 B. 13. d. 2) Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area or wetland critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

i. 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.

ii. 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.

iii. 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.

iv. 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.

v. 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. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

vi. Educational and scientific research activities

vii. 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 or use of the facility or right-of-way.

8.01 B. 13. e. Wetland Buffers

8.01 B. 13. e. 1) Buffer Requirements. The standard buffer widths in Table 8.2 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for eastern Washington.

i. The use of the standard buffer widths requires the implementation of the measures in Table 8.3, where applicable, to minimize the impacts of the adjacent land uses.

ii. If an applicant chooses not to apply the mitigation measures in Table 8.3 then a 33% 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.

iii. 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 should 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.

iv. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 150 feet (75 + 75).

v. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Administrator 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:

   (1) 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; or

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

   (3) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

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

   (1) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.

   (2) 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 areas report from a qualified wetland professional.

   (3) The total area of the buffer after averaging is equal to the area required without averaging.

   (4) The buffer at its narrowest point is never less than either ¾ 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.

vi. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met:

   (1) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.

   (2) The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a critical areas report from a
qualified wetland professional. The total buffer area after averaging is equal to the area required without averaging.

(3) The buffer at its narrowest point is never less than either \(\frac{3}{4}\) 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.

### Table 8.2 Wetland Buffer Requirements

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Standard Buffer Width</th>
<th>Additional buffer width if wetland scores 21-25 habitat points</th>
<th>Additional buffer width if wetland scores 26-29 habitat points</th>
<th>Additional buffer width if wetland scores 30-36 habitat points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Based on total</td>
<td>75 ft</td>
<td>Add 15 ft</td>
<td>Add 45 ft</td>
<td>Add 75 ft</td>
</tr>
<tr>
<td>score</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forested</td>
<td>75 ft</td>
<td>Add 15 ft</td>
<td>Add 45 ft</td>
<td>Add 75 ft</td>
</tr>
<tr>
<td>Bogs</td>
<td>190 ft</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Alkali</td>
<td>150 ft</td>
<td>N/A</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Natural Heritage</td>
<td>190 ft</td>
<td>N/A</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Wetlands</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Category II:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Based on total</td>
<td>75 ft</td>
<td>Add 15 ft</td>
<td>Add 45 ft</td>
<td>Add 75 ft</td>
</tr>
<tr>
<td>score</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vernal pool</td>
<td>150</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Forested</td>
<td>75 ft</td>
<td>Add 15 ft</td>
<td>Add 45 ft</td>
<td>Add 75 ft</td>
</tr>
<tr>
<td>Category III (all)</td>
<td>60 ft</td>
<td>Add 30 ft</td>
<td>Add 60 ft</td>
<td>NA</td>
</tr>
<tr>
<td>Category IV (all)</td>
<td>40 ft</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
Table 8.3 Required measures to minimize impacts to wetlands
(Measures are required, where applicable to a specific proposal)

<table>
<thead>
<tr>
<th>Disturbance</th>
<th>Required Measures to Minimize Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lights</td>
<td>Direct lights away from wetland</td>
</tr>
<tr>
<td>Noise</td>
<td>Locate activity that generates noise away from wetland</td>
</tr>
<tr>
<td></td>
<td>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</td>
</tr>
<tr>
<td></td>
<td>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</td>
</tr>
<tr>
<td>Toxic runoff</td>
<td>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</td>
</tr>
<tr>
<td></td>
<td>Establish covenants limiting use of pesticides within 150 ft of wetland</td>
</tr>
<tr>
<td></td>
<td>Apply integrated pest management</td>
</tr>
<tr>
<td>Stormwater runoff</td>
<td>Retrofit stormwater detention and treatment for roads and existing adjacent development</td>
</tr>
<tr>
<td></td>
<td>Prevent channelized flow from lawns that directly enters the buffer</td>
</tr>
<tr>
<td></td>
<td>Use Low Intensity Development techniques (per PSAT publication on LID techniques)</td>
</tr>
<tr>
<td>Change in water regime</td>
<td>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</td>
</tr>
<tr>
<td>Pets and human disturbance</td>
<td>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion;</td>
</tr>
<tr>
<td></td>
<td>Place wetland and its buffer in a separate tract or protect with a conservation easement</td>
</tr>
<tr>
<td>Dust</td>
<td>Use best management practices to control dust</td>
</tr>
<tr>
<td>Disruption of corridors or connections</td>
<td>Maintain connections to offsite areas that are undisturbed</td>
</tr>
<tr>
<td></td>
<td>Restore corridors or connections to offsite habitats by replanting</td>
</tr>
</tbody>
</table>

8.01 B. 13. e. 2) To facilitate long-range planning using a landscape approach, the Administrator may identify and pre-assess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The Administrator will prepare maps of wetlands that have been pre-assessed in this manner.

8.01 B. 13.e. 3) Measurement of Wetland Buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered.
Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

8.01 B. 13. e. 4) **Buffers on Mitigation Sites.** 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.

8.01 B. 13. e. 5) **Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Section, 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.

8.01 B. 13. e. 6) **Impacts to Buffers.** Requirements for the compensation for impacts to buffers are regulated in Chapter 11.

8.01 B. 13. e. 7) **Overlapping Critical Area Buffers.** If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

8.01 B. 13. e. 8) **Allowed Buffer Uses.** The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, 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.

i. **Conservation and Restoration Activities.** Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

ii. **Passive recreation.** Passive recreation facilities designed and in accordance with an approved critical area report, including:

   (1) 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 twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

   (2) Wildlife-viewing structures

iii. **Educational and scientific research activities.**

iv. **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 increase the footprint or use of the facility or right-of-way.

v. **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.

vi. **Drilling for utilities/utility corridors** under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, 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 is disturbed.

vii. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. 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.

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

   (1) No other location is feasible; and
   (2) The location of such facilities will not degrade the functions or values of the wetland; and
   (3) Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

ix. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

8.01 B. 13. e. 9) Signs and Fencing of Wetlands and Buffers.

i. Temporary markers. 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 Administrator 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.

ii. Permanent signs. As a condition of any permit or authorization issued pursuant to this Section, the Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

   (1) 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 (1) per lot or every fifty (50) feet, whichever 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 Administrator:
Protected Wetland Area Do Not Disturb  
Contact city of Pateros Regarding Uses, Restrictions, and Opportunities for Stewardship

(2) The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.

iii. Fencing

(1) 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.

(2) Fencing installed as part of a proposed activity or as required in this Subsection 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.

8.01 B. 13. f. Critical Area Report requirements for Wetlands are found in Chapter 11, Section 11.01 B.3.d. 2).

8.01 B. 13. g. Mitigation and Compensatory Mitigation requirements for wetlands are found in Chapter 11, Section 11.01 B.3. h and the performance standards in 8.01 B. 13. h.

8.01 B. 13. h. Performance Standards. The following performance standards shall apply to compensatory mitigation projects:

8.01 B. 13. h. 1) Specific criteria shall be provided in the mitigation plan for evaluating whether or not the goals and objectives of the mitigation project are being met. Such criteria may include percent aerial cover and survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, water quality improvement, flood retention, or other ecological, geological or hydrological criteria. Unless the site specific criteria dictate otherwise, default performance standards for the site shall meet mitigation planting survival of 100% for the first year and 80% plant survival for each of the 4 years following initial planting.

8.01 B. 13. h. 2) Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Administrator.

8.01 B. 13. h. 3) Success of a mitigation site is dependent upon site selection which supports the establishment of an appropriate wetland hydroperiod that permanently maintains the mitigation site, rather than on continued irrigation. To help ensure successful wetland mitigation, where necessary, a temporary means of irrigation shall be installed for the mitigation plantings within the wetland, that are designed by a landscape architect or equivalent professional, as approved by the Administrator. Where necessary, the administrator may require a permanent means of irrigation be installed for mitigation plantings within the wetland buffer, given the arid conditions of the region. The design shall meet the specific needs of the wetland, riparian and shrub steppe vegetation, as may be applicable.

8.01 B. 13. h. 4) Monitoring reports by the biologist must include verification that
the planting areas have less than 20% total non-native/invasive plant cover consisting of exotic and/or invasive species. Exotic and invasive species may include any species on the state noxious weed list, or considered a noxious or problem weed by the Natural Conservation Services Department or local conservation districts.

8.01 B. 13. h. 5) Onsite monitoring and monitoring reports shall be submitted to the City Administrator 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified professional biologist. The biologist must verify that the conditions of approval and provisions in the wetland management and mitigation plan have been satisfied.

8.01 B. 13. h. 6) Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

8.01 B. 13. h. 7) Prior to site development and or building permit issuance, a performance surety agreement in conformance with 8.01 B. 8., must be entered into by the property owner and the City. The surety agreement must include the complete costs for the mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified professional biologist, including Washington State Sales Tax. The City Administrator must approve the quote for said improvements.

8.01 B. 13. h. 8) Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the mitigation and management plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. Verification of conformance with the provisions of the mitigation and management plan and conditions of approval after 1 year of mitigation installation shall also allow for the full release of funds associated with irrigation systems, clearing and grubbing and any soil amendments. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the City may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carryover of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the City’s Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.

8.01 B. 13. i. General standards. The following minimum standards shall apply to all development activities occurring within designated wetlands and/or their buffers.

8.01 B. 13. i. 1) Except where permitted by this master program, wetlands and wetland buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the wetland and/or buffer are unavoidable,
demonstrated by compliance with this section. Impacts must be addressed with appropriate mitigation and enhancement measures as determined on a site-specific basis in conformance with this section.

8.01 B. 13. i. 2) Wetland Buffers. Appropriate buffer areas shall be maintained between all permitted uses and activities and the designated wetland. Provisions to identify the type of wetland and delineate its boundary are established in this section and must be conducted by a qualified professional biologist.

i. The width of a wetland buffer, as measured from the wetland edge established in the approved wetland boundary survey, shall be as found in Table 8.2.

ii. Where a wetland is located within a riparian buffer, the buffer width, riparian or wetland, which provides the greatest degree of protection shall apply.

iii. All buffers shall be measured from the wetland edge, as established by the approved wetland boundary survey.

iv. All buffer areas shall be temporarily fenced between the construction activity and the buffer with a highly visible and durable protective barrier during construction to prevent access and protect the designated wetland and associated buffer. The Administrator may waive this requirement if an alternative to fencing which achieves the same objective is proposed and approved.

v. Except as otherwise allowed, buffers shall be retained in their natural condition. Any habitat created, restored or enhanced as compensation for approved wetland alterations shall have the standard buffer required for the category of the created, restored or enhanced wetland.

vi. Land divisions within designated wetland areas shall require a minimum lot frontage along the protective buffer or shoreline as outlined in this Program.

vii. The width of the buffer shall be increased by the Administrator for a development project on a case-by-case basis when a larger buffer is necessary to protect the designated wetland function and value. The determination shall be based on site-specific and project-related conditions which include, without limitation:

(1) The designated wetland is used for feeding, nesting and resting by species proposed or listed by the federal or state government as endangered, threatened, sensitive, candidate, monitor or critical; or if it is outstanding potential habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees;

(2) The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts;

8.01 B. 13. j. Specific standards. The following standards shall apply to the activity identified below, in addition to the general standards outlined in this master program.

8.01 B. 13. j. 1) Developments which contain a wetland or wetland buffer on site shall comply with the following minimum standards:

i. All plats shall disclose the presence on each residential lot one building site,
including access, that is suitable for development and which is not within the designated wetland or its associated buffer;

ii. All designated wetland areas and their proposed buffers shall be clearly identified on all final plats, maps, documents, etc;

iii. Designated wetlands and their associated wetland buffers shall be designated and disclosed on the final plats, maps, documents, etc., as critical area tracts, nonbuildable lots and buffer areas or common areas. Ownership and control may be transferred to a homeowner’s association or designated as an easement or covenant encumbering the property.

iv. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as may be approved by the Administrator.

v. Residential developments with the potential for two or more dwelling units shall disclose on the face of the plat whether the development will be served by joint use or community dock facilities or a combination thereof. Access easements and dock locations shall be identified by a qualified professional biologist who will address the standards of this Master Program. The identification of access easements and dock locations is not a substitute for permitting required in order to develop moorage facilities and in no way guarantees such an approval.

8.01 B. 13. j. 2) Stream Crossings. Expansion or construction of stream crossings may be authorized within a designated wetland or wetland buffer, subject to the following minimum standards:

i. Bridges are required for streams which support salmonids;

ii. All crossings using culverts shall use superspan or oversize culverts;

iii. Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists;

iv. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;

v. Crossings shall not diminish flood carrying capacity; and

vi. Crossings shall serve multiple properties whenever possible.

8.01 B. 13. J. 3) Water dependant uses, as defined by this Program, may be located within a wetland or wetland buffer when the applicant or property owner can demonstrate compliance with Section 8.01 B. 13. j.
i. Developments authorized within a buffer shall comply with the following minimum standards:

(1) Designated habitat conservation areas and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, non buildable lots, buffer areas or common areas. Ownership and control may be transferred to a homeowner’s association or designated as an easement or covenant encumbering the property.

(2) All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as may be approved by the Administrator.

8.01 B. 13. j. 4) Trails and trail-related facilities. Construction of public and private trails and trail-related facilities, such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites may be authorized within designated resource lands and critical areas, subject to the following minimum standards:

i. Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;

ii. Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard;

iii. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;

iv. All facilities shall be constructed with materials complementary to the surrounding environment;

v. Commercial and Public trail facilities that parallel the shoreline may be located in the outer 25 percent of the buffer area and shall be the minimum width necessary for designed use, but shall not exceed 10 feet in width. Private parallel shoreline trails may be located in the outer 25 percent of the buffer and shall not exceed 4 feet in width; trails that provide direct shoreline access shall not exceed 4 feet in width. Trails that provide direct shoreline access shall be kept to the minimum number necessary to serve the intended purpose, and

vi. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.

vii. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.
8.01 B. 14. Frequently flooded areas. Development, uses and activities within identified frequently flooded areas (see map in Appendix C) shall comply with the regulations contained in this master program and be compliant with Chapter 15.16 of the Pateros Municipal Code.

8.01 B. 14. a. Classification. The following classification system will be used to determine the level of protection necessary for frequently flooded areas:

8.01 B. 14. a. 1) Class I. The floodway of any river or stream as designated by FEMA; and draws, alluvials and flood channels that are not mapped by FEMA but are areas of local concern that have a historical reoccurrence of flood events characterized by significant damage from flood flows.

8.01 B. 14. a. 2) Class II. All areas mapped by FEMA as one hundred (100) year flood plain; and those areas of local concern that experience recurrences of flooding that are characterized by damage due primarily to inundation.

8.01 B. 14. b. Standards. For all Class I and Class II frequently flooded areas found inside the jurisdiction of the Pateros shoreline master program, the following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying zone:

8.01 B. 14. b. 1) Encroachments and obstructions, including fill, yard waste dumping, new construction, substantial improvements and other uses are prohibited.

8.01 B. 15. Geologically hazardous areas. Development, uses and activities within identified geologically hazardous areas (see map in Appendix C) shall comply with the regulations contained in this master program.

8.01 B. 15. a. Classification. Known geologically hazardous areas within the city of Pateros consist of erosion hazard areas, including Channel Migration Zones (Appendix G) and steep slopes. As more information is obtained that demonstrates the existence of other types and/or areas of geologically hazardous areas, these types and/or areas shall be classified and protected in accordance with the provisions of this chapter.

8.01 B. 15. a. 1) Areas that are susceptible to one or more of the following types of hazards shall be classified as a geologically hazardous area:

i. Erosion hazard;

ii. Landslide hazard;

iii. Seismic hazard; or

iv. Areas subject to other geological events such as coal mine hazards and volcanic hazards including: Mass wasting, debris flows, rockfalls, and differential settlement.

8.01 B. 15. a. 2) The following general classification system will be used to determine the level of protection necessary for geologically hazardous areas, based upon the risk to development:

i. Known or suspected risk;

ii. No risk;

iii. Risk unknown.
8.01 B. 15. a. 3) The following criteria shall be used in determining the status of an area as a particular type of geologically hazardous area:

i. Erosion hazard areas are at least those areas identified by the United States Department of Agriculture Soil Conservation Service as having a "severe" rill and inter-rill erosion hazard.

ii. Landslide hazard areas shall include areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

1) Areas of historic failures, such as:
   (A) Those areas delineated by the United States Department of Agriculture Soil Conservation Service as having a "severe" limitation for building site development;
   (B) Those areas mapped as class u (unstable), uos (unstable old slides), and urs (unstable recent slides) in the department of ecology coastal zone atlas; or
   (C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published as the United States Geological Survey or department of natural resources division of geology and earth resources.

2) Areas with all three of the following characteristics:
   (A) Slopes steeper than fifteen percent; and
   (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
   (C) Springs or ground water seepage;

3) Areas that have shown movement during the holocene epoch (from ten thousand years ago to the present) or which are underlain or covered by mass wastage debris of that epoch;

4) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

5) Slopes having gradients steeper than eighty percent subject to rockfall during seismic shaking;

6) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action;

7) Areas that show evidence of, or are at risk from snow avalanches;
   Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding;

8) Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.
iii. Seismic hazard areas shall include areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

1. The magnitude of an earthquake;
2. The distance from the source of an earthquake;
3. The type of thickness of geologic materials at the surface; and
4. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless soils of low density, typically in association with a shallow ground water table.

iv. Other geological events:

1. Volcanic hazard areas shall include areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

2. Mine hazard areas are those areas underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or air shafts. Factors which should be considered include: Proximity to development, depth from ground surface to the mine working, and geologic material.

8.01 B. 15. b. Determination process—Geologically hazardous area. The City shall review each shoreline permit application to determine if the provisions of this section shall be initiated. In making the determination, the City may use any resources identified in this section, as well as any previously completed special reports conducted in the vicinity of the subject proposal. The following progressive steps shall occur upon a determination by the City that a geologically hazardous area may exist on a site proposed for a development permit:

8.01 B. 15. b. 1) Step One. City staff shall determine if there is any possible geologically hazardous area on-site designated by Section 8.01 B. 15 a. 3) of this Appendix. This determination shall be made following a review of information available and a site inspection if appropriate. If no hazard area is determined to be present, this chapter shall not apply to the review of the proposed development.

8.01 B. 15. b. 2) Step Two. If it is determined that a geologically hazardous area may be present, the applicant shall submit a geologic hazard area risk assessment prepared by an engineer or a geologist. The risk assessment (geotechnical report) shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic
hazards that may be nearby.

**8.01 B. 15. b. 3)** Step Three. If the professional preparing the risk assessment in step two concludes that further analysis is necessary, the applicant shall submit a geotechnical report.

**8.01 B. 15. b. 4)** The geotechnical report shall include a certification from the engineering geologist or geotechnical engineer preparing the report, including the professionals stamp and signature. The geotechnical report shall include the following:

i. A description of the geology of the site;

ii. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;

iii. Conclusions and recommendations on the suitability of the site to be developed;

iv. An evaluation of the actual presence of geologic conditions giving rise to the geologic hazard;

v. An evaluation of the safety of the proposed project;

vi. Identification of construction practices, monitoring programs and other mitigation measures necessary;

vii. A bibliography of scientific citations shall be included as necessary.

viii. A statement regarding:

   (1) The risk of damage from the project, both on- and off-site;

   (2) Whether or not the project will materially increase the risk of occurrence of the hazard;

   (3) The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.

**8.01 B. 15. c. Standards.** The following standards for development shall be required in addition to the general provisions of this chapter and the requirements of the underlying shoreline designation:

**8.01 B. 15. c. 1)** All mitigation measures, construction techniques, recommendations and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

**8.01 B. 15. c. 2)** A proposed development cannot be approved if it is determined by the geotechnical report that either the proposed development or adjacent properties will be at risk of damage from the geologic hazard, or that the project will increase the risk of occurrence of the hazard, and there are no adequate mitigation measures to alleviate the risks.

**8.01 B. 15. c. 3)** New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development shall be prohibited.
**8.01 B. 15. c. 4)** New development that would require structural shoreline stabilization over the life of the development shall be prohibited. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC 173-26-231.

**8.01 B. 15. c. 5)** 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 in strict conformance with WAC 173-26-231 requirements and then only if no net loss of ecological functions will result.

**8.01 B. 15. c. 6)** All projects shall comply with the applicable federal, state and local regulations, including the International Building Code:

i. As determined through the site-specific study, appropriate buffers shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s);

ii. The existing native vegetation within the buffer area(s) shall be maintained, except that normal, nondestructive pruning and trimming of vegetation for maintenance purposes is allowed;

iii. As determined through the site-specific study, appropriate drainage, grading, excavation and erosion control measures shall be implemented in the geologically hazardous area(s);

iv. As determined through the site-specific study, mitigation measures shall be implemented that maintain the integrity of the geologically hazardous area(s);

v. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided as described in Section 8.01 B. 8; and

vi. A use or structure established prior to the effective date of this chapter, which does not conform to standards set forth herein, is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

**8.01 C. Flood Hazard Prevention Projects**

**8.01 C. 1. Purpose.** It is the purpose of this section to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

8.01 C. 1. a. To protect human life and health;

8.01 C. 1. b. To minimize expenditure of public money and costly flood control projects;

8.01 C. 1. c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

8.01 C. 1. d. To minimize prolonged business interruptions;
8.01 C. 1. e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

8.01 C. 1. f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

8.01 C. 1. g. To ensure that potential buyers are notified that property is in an area of special flood hazard;

8.01 C. 1. h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

8.01 C. 2. Methods of reducing flood losses. In order to accomplish its purposes, this section includes methods and provisions for:

8.01 C. 2. a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

8.01 C. 2. b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

8.01 C. 2. c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

8.01 C. 2. d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

8.01 C. 2. e. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

8.01 C. 3. Lands to which this section applies. (44 CFR 59.22(a)) This chapter shall apply to all areas of special flood hazards within the jurisdiction of Pateros, Washington.

8.01 C. 4. Basis for establishing the areas of special flood hazard. (44 CFR 60.3(c)(1)(d)(2)). The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Pateros, Washington" to be completed, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM will be on file at 113 Lakeshore Drive when completed. The best available information for flood hazard area identification as outlined in 8.01 C. 11. b. shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 8.01 C. 11.

8.01 C. 5. Penalties for noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than two hundred fifty dollars ($250.00), for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Pateros, Washington, from taking such other lawful action as is necessary to prevent or remedy any violation.
8.01 C. 6. **Abrogation and greater restrictions.** This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

8.01 C. 7. **Interpretation.** In the interpretation and application of this chapter, all provisions shall be:

- 8.01 C. 7.a. Considered as minimum requirements;
- 8.01 C. 7.b. Liberally construed in favor of the governing body; and
- 8.01 C. 7.c. Deemed neither to limit nor repeal any other powers granted under state statutes.

8.01 C. 8. **Warning and disclaimer of liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Pateros, Washington, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

8.01. 9. **Establishment of development permit.**

- 8.01 C. 9.a. Development Permit Required (44 CFR 60.3(b)(1)). A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 8.01 C. 4. The permit shall be for all structures including manufactured homes, as set forth in Section 2.99, Definitions, and for all development including fill and other activities, also as set forth in Section 2.49, Definitions.

- 8.01 C. 9.b. Application for Development Permit (not mandatory; however example permits are available from FEMA/DOE for review or use). Application for a development permit shall be made on forms furnished by the city of Pateros, Washington, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

  - 8.01 C. 9.b. 1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;
  - 8.01 C. 9.b. 2) Elevation in relation to mean sea level to which any structure has been floodproofed;
  - 8.01 C. 9.b. 3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Section 8.01 C. 21;
  - 8.01 C. 9.b. 4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
8.01 C. 10. **Designation of the local administrator.** The building official/permit administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

8.01 C. 11. **Duties and responsibilities of the local administrator.** Duties of the administrator shall include, but not be limited to:

8.01 C. 11. a. **Permit Review.**

8.01 C. 11. a. 1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

8.01 C. 11. a. 2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required (44 CFR 60.3(a)(2)).

8.01 C. 11. a. 3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 8.01 C. 25. A. are met.

8.01 C. 11. b. **Use of Other Base Flood Data (in A and V Zones) (44 CFR 60.3(b)(4)).**

When base flood elevation data has not been provided (in A or V Zones) in accordance with Section 8.01 C. 4., Basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 8.01 C. 17. through 8.01 C. 23, specific standards, and Section 8.01 C. 25, Floodways.

8.01 C. 11. c. **Information to Be Obtained and Maintained (44 CFR).**

8.01 C. 11. c. 1) Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in 8.01 C. 11. b., obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement (44 CFR 60.3(b)(5)(i)). Recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official.

8.01 C. 11. c. 2) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in 8.01 C. 11. b.:

i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed (44 CFR 60.3(b)(5)(ii)).

ii. Maintain the floodproofing certifications required in Section 8.01 9. b. 3) (44 CFR 60.3(b)(5)(iii)).

8.01 C. 11. c. 3) Maintain for public inspection all records pertaining to the provisions of this section (44 CFR 60.3(b)(5)(iii)).

8.01 C. 11. d. **Alteration of Watercourses (44 CFR 60.3(b)(6)).**

8.01 C. 11. d. 1) Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
8.01 C. 11. d. 2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

8.01 C. 11. e. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).


8.01 C. 12. a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

8.01 C. 12. b. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

8.01 C. 12. c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

8.01 C. 12. d. Variances shall only be issued upon:

8.01 C. 12. d. 1) A showing of good and sufficient cause;

8.01 C. 12. d. 2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

8.01 C. 12. d. 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

8.01 C. 12. e. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

8.01 C. 12. f. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 8.01 C. 12. b., and otherwise complies with Sections 8.01 C. 14. 8.01 C. 16 and 8.01 C. 17 of the general standards.

8.01 C. 12. g. Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk.
8.01 C. 13. General standards. In all areas of special flood hazards, the standards of Sections 8.01 C. 14 through 8.01 C. 25 are required.

8.01 C. 14. Development in floodplains should not significantly or cumulatively increase flood hazards or be inconsistent with comprehensive flood hazard management plans adopted pursuant to Chapter 86.12 RCW.

8.01 C. 15. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be permitted when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

8.01 C. 16. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:

8.01 C. 16. a. Actions that protect or restore the ecosystem-wide processes or ecological functions.

8.01 C. 16. b. Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.

8.01 C. 16. c. Mining when conducted in a manner consistent with Section 8.02 H. Mining, the shoreline environment designation, and with the provisions of WAC 173-26-241(3)(h).

8.01 C. 16. d. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.

8.01 C. 16. e. Repair and maintenance of an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

8.01 C. 16. f. Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active channel movement and flooding.

8.01 C. 16. g. 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 geo-morphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

8.01 C. 17. Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development; that nonstructural measures are not feasible; that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with Chapter 8, and WAC 173-26-221(5).

8.01 C. 18. Structural flood hazard reduction measures shall be consistent with adopted comprehensive flood hazard management plans approved by the Department of Ecology.

8.01 C. 19. Place new structural flood hazard reduction measures landward of the
associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized 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 shall be documented through a geotechnical analysis.

**8.01 C. 20.** Require that new structural public flood hazard reduction measures, such as dikes and levees, 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 unmitigated significant ecological impacts, unavoidable conflict with the proposed use, or cost that is disproportionate and unreasonable to the total long-term cost of the development.

Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with the provisions of WAC 173-26, Section 8.03 C. Dredging and Section 8.02 H Mining; and be 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.

**8.01 C. 21.** Anchoring.

**8.01 C. 21. a.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure (44 CFR 60.3(a)(3)(i)).

**8.01 C. 21. b.** All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (44 CFR 603(b)(8)). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

**8.01 C. 22.** Construction materials and methods.

**8.01 C. 22. a.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

**8.01 C. 22. b.** All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**8.01 C. 22. c.** Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

**8.01 C. 23.** Utilities.

**8.01 C. 23. a.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

**8.01 C. 23. b.** Water wells shall be located on high ground that is not in the floodway;\(^\text{11}\)

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\(^\text{11}\) - Minimum FEMA standards require the lowest floor to be elevated "to or above" the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as thirty (30) percent. Adopting additional
8.01 C. 23. c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

8.01 C. 23. d. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8.01 C. 24. Subdivision proposals.

8.01 C. 24. a. All subdivision proposals shall be consistent with the need to minimize flood damage;

8.01 C. 24. b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage;

8.01 C. 24. c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

8.01 C. 24. d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five acres (whichever is less).

8.01 C. 25. Review of building permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source Section 8.01 C. 11. b. applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

8.01 C. 26. Specific standards. (44 CFR 60.3(c)(1)) In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 8.01 C. 4., Basis for establishing the areas of special flood hazard, or Section 8.01 C. 11. b. Use of other base flood data. Additional standards were clarified in FEMA Technical Bulletin 11-01 to allow crawl space construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a twenty (20) percent increase in flood insurance premiums. The following provisions are required.

8.01 C. 27. Residential construction.

8.01 C. 27. a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

8.01 C. 27. b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.

12 - Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard and are often inadvertently permitted. Insurance rates reflect an "all or nothing" standard, meaning, partially ventilated crawlspace may be subject to an additional loading fee of twenty (20) to twenty-five (25) percent attached to the annual insurance premium.
8.01 C. 27. b. 1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

8.01 C. 27. b. 2) The bottom of all openings shall be no higher than one foot above grade.

8.01 C. 27. b. 3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

8.01 C. 28. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

8.01 C. 28. a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

8.01 C. 28. b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

8.01 C. 28. c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 8.01 11. c. 2);

8.01 C. 28. d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 8.01 C. 20. b.

8.01 C. 29. Manufactured homes. All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

8.01 C. 30. Recreational vehicles. Recreational vehicles placed on sites are required to either:

8.01 C. 30. a. Be on the site for fewer than one hundred eighty (180) consecutive days; or

8.01 C. 30. b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

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13 - Applicants who are floodproofing nonresidential buildings should be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

14 - Minimum FEMA standards require the lowest floor to be elevated “to or above” the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as thirty (30) percent. Adopting additional freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.
8.01 C. 30. c. Meet the requirements of Section 8.01 C. 22 and the elevation and anchoring requirements for manufactured homes.

8.01 C. 31. AE and A1-30 Zones with base flood elevations but no floodways. (44 CFR 60.3(c)(10)) In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

8.01 C. 32. Floodways. (Chapter 86.16 RCW) Located within areas of special flood hazard established in Section 8.01 C. 4. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

8.01 C. 32. a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge (44 CFR 60.3(d)(3)).

8.01 C. 32. b. Construction or reconstruction of residential structures is prohibited within designated floodways 15, except for (1) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (2) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (a) before the repair or reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the fifty (50) percent.

8.01 C. 32. c. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 8.01 C. 13. through 8.01 C. 26, provisions for flood hazard reduction.

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15 - FEMA endorses the more restrictive Washington floodway standard adopted in WAC 173-158-070.
8.01 C. 21.  8.02 Use and Designation Specific Regulations

8.02 A.  Accessory Utilities

8.02 A. 1.  Accessory Utilities – General Regulations

Accessory utilities are small-scale distribution facilities connected directly to the uses along the shoreline. Electrical, gas, telephone, cable, water and sewer lines serving a residential development or a commercial establishment are examples of utilities accessory to shoreline uses. Transmission facilities related to a hydropower generating facility are not accessory utilities—they are primary utility facilities.

8.02 A. 1. a.  Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion.

8.02 A. 1. b.  Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

8.02 A. 1. c.  Accessory utilities shall be placed landward of the permitted use setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.

8.02 A. 1. d.  Existing rights of way and corridors shall be used whenever possible to accommodate the location of utilities. Where no other feasible alternative exists, accessory utilities that require continued maintenance (i.e. no growth over septic systems, electrical transmission lines that require removal of undergrowth) shall not be placed in Zone 1 or 2 Buffers (between OHWM and structure setback), and;

8.02 A. 1. e.  Accessory Utilities should not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

8.02 A. 1. f.  Accessory Utilities should not obstruct views or vistas that may alter the visual character of the shoreline environment and its associated water body. Measures to conceal or shield accessory utilities in the shoreline from the water or to protect important view sheds or vistas from the shoreline may be required as conditions for building and development permits.

8.02 A. 1. g.  Aesthetic measures such as material and color selections to mitigate visual impacts including, but not limited to, light pollution, glare, visual obstructions of views and vistas may be required by the administrator.

8.02 A. 1. h.  Underground placement shall give preference over overhead or above ground utilities where feasible.
8.02 A. 1. i. Permanent storm water management systems located in shoreline jurisdiction or serving property within the shoreline shall be designed using best management practices ensuring water quality treatment in compliance with the Stormwater Management Manual for Eastern Washington to prevent stormwater runoff from degrading or adding to the pollution of recipient waters or adjacent properties. Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and/or improvement plans.

8.02 A. 2. Accessory Utilities Designation Specific Requirements:

8.02 A. 2. a. Aquatic

8.02 A. 2. a. 1) Prohibited except those required to serve a permitted water dependent use.

8.02 A. 2. b. Natural

8.02 A. 2. b. 1) Requires a substantial development permit

8.02 A. 2. c. Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity

8.02 E. 5. a. 1) Allowed, as permitted by primary use

Agriculture

8.02 B. 1. Agriculture General Use Regulations

8.02 B. 1. a. New agricultural activities on lands that did not have agricultural activities in place at the time of adoption of this Master Program; conversion of agricultural lands or the development of non-agricultural activities on agricultural lands; and uses in support of agricultural activities are governed by the provisions of this Master Program and subject to the following criteria:

8.02 B. 1. a. 1) Non-Agricultural land\textsuperscript{16} converted to an agricultural use shall preserve pre-existing riparian habitat and will have a buffer strip of native vegetation no less than the Zone 1 Vegetation Buffer setback for the shoreline designation where it is located. Said buffer will be established and maintained along shorelines to protect shoreline ecological functions. Disturbance of ground in Zone 2 of the Use Buffer is subject to Lot Coverage standards.

8.02 B. 1. a. 2) Uses and activities shall be consistent with regulations specific to the shoreline designation in which the site is located, including regulations in the tables of uses and development standards;

8.02 B. 1. a. 3) Uses and activities shall be located and designed to ensure no net loss of ecological functions;

8.02 B. 1. a. 4) Uses and activities shall not have a significant impact on other shoreline ecological function.

\textsuperscript{16} - Non-agricultural lands are those lands that have not been subject to agriculture uses as defined in Chapter 2.
8.02 B. 1. b. Discharge of any manure storage facility into ground or surface water is prohibited.

8.02 B. 1. c. New feedlots, AFOS and CAFOS, or any animal feeding operation that is subject to a CAFO permit as defined by Department of Ecology in WAC 173-95A-020 and manure lagoons are prohibited within shoreline jurisdiction.

8.02 B. 1. d. Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi).

8.02 B. 2. Agriculture - Designation Specific Regulations

8.02 B. 2. a. Aquatic, Natural

8.02 B. 2. a. 1) Prohibited

8.02 B. 2. b. Shoreline Recreation, Shoreline Residential

8.02 B. 2. b. 1) Preference shall be given to non-commercial, community and/or personal gardens that may be used for personal use or small-scale market gardens

8.02 B. 2. b. 2) Conversion of non-agricultural land to an agricultural use - substantial development permit.

8.02 B. 2. c. Urban Conservancy and High Intensity

8.02 B. 2. c. 1) Conversion of non-agricultural land to an agricultural use for commercial purposes shall require a substantial development permit so long as the use is consistent with locally adopted comprehensive plans and zoning.

Aquaculture

8.02 C. 1. Aquaculture - General Use Regulations

8.02 C. 1. a. Aquaculture projects that involve minimal or no substrate modification shall be given preference over those that involve substantial modification. The applicant shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site. The installation of submerged structures and floating structures shall be allowed only when the applicant demonstrates that no alternative method of operation is feasible.

8.02 C. 1. b. Aquaculture projects that involve minimal or no impact on the aesthetic qualities of the shoreline shall be given preference over those that involve substantial impact. The applicant shall demonstrate that the aesthetic impact is the minimum necessary for feasible aquaculture operations at the site.

8.02 C. 1. c. Aquaculture projects that would have a significant adverse impact on natural, dynamic shoreline processes, or that would result in a net loss of shoreline ecological functions (including spreading disease to native aquatic life or establishing new nonnative species that cause significant ecological impacts), shall be prohibited.
**8.02 C. 1. d.** Aquaculture practices shall be designed to minimize use of artificial substances and shall use chemical compounds that are least persistent and have the least impact on plants, animals and water quality. Herbicides and pesticides shall be used only in conformance with state and federal standard and to the minimum extent needed for the health of the aquaculture activity.

**8.02 C. 1. e.** Aquaculture projects that would significantly conflict with navigation or with established water-dependent uses shall be prohibited.

**8.02 C. 1. f.** Applications for aquaculture projects shall include all information necessary to conduct a thorough evaluation of the proposed aquaculture activity, including but not limited to the following:

1. A site plan map including:
   - i. The perimeter of the proposed aquaculture operations area.
   - ii. Existing bathymetry depths based on the Ordinary High Water Mark (OHWM).
   - iii. Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other modifications. If there are shore stabilization structures, provide the beach elevation at the toe of the structure and the top of the structure (OHWM datum).
   - iv. Areas where specific substrate modification will take place or structures will be constructed or installed.
   - vi. Location of storage or processing structures or facilities.

2. A baseline description of existing conditions, including best available information on:
   - i. Water quality
   - ii. Prevailing storm wind conditions
   - iii. Current flows
   - iv. Flushing rates
   - v. Areas of differing substrate composition.
   - vi. Areas of aquatic, and upland vegetation complexes.
   - vii. Existing shoreline or water uses and structures.
   - viii. Aquatic and benthic organisms.
   - ix. Assessment of aquatic species, and spawning and other lifecycle use of, or adjacent to, the site. Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.

3. A detailed description of the project proposal including:
   - i. Species to be reared.
   - ii. Substrate modification or vegetation removal.
iii. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.

iv. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. No such materials shall be used until approval is obtained from all appropriate State and Federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the local government with jurisdiction. Compounds with the least persistence shall be used. An annual report of antibiotic use shall be submitted to the Okanogan County Health District. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by Health District staff at all times.

v. Number of employees/workers necessary for the project, including average and peak employment.

vi. Methods of waste disposal and predator control.

vii. Methods to address pollutant loading, including biological oxygen demand (BOD).

viii. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified in the Shoreline Characterization (Appendix A), including but not limited to watershed-level, indirect and cumulative effects.

ix. For floating culture facilities or other structures, the local government with jurisdiction may require a visual impact analysis. (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant without professional assistance, provided that it includes an adequate assessment of impacts.

x. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.

xi. Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect Critical Areas.

xii. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, underwater utilities, and scientific research. Existing public opportunities for gathering wild stock aquatic resources on public lands shall be addressed in any application for aquaculture on public bedlands. Compensation for loss of public access to public aquatic resources may be required.
xiii. Other pertinent information deemed necessary by the Administrator. Applications for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.

xiv. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.

xv. Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impacts from noise, light, and/or glare on nearby residents, other sensitive uses or critical habitat.

xvi. Aquaculture facilities shall not introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.

8.02 C. 1. g. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all experimental aquaculture activities, unless otherwise provided for, the local government with jurisdiction shall require baseline and periodic operational monitoring by a consultant approved by said government, at the applicant's expense, which continue until adequate information is available to determine the success of the project and the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

8.02 C. 1. h. All aquaculture projects shall be submitted for review to local, state and federal agencies with expertise, including the Washington departments of Ecology and of Fish and Wildlife, and to the operators of affected FERC licensed hydro-projects. The local government with jurisdiction shall make available to those agencies the Shoreline Inventory and Characterization (Appendix A and Chapter 4) and maps developed as part of this SMP and shall request technical assistance in establishing any conditions that should be required of a project and in assessing the monitoring plan.

8.02 C. 1. i. New aquatic species that have not previously been cultivated in Washington State shall not be introduced without prior written approval of the Director of the Washington State Department of Fish and Wildlife and the Director of the Washington Department of Health.

8.02 C. 1. j. Except for the sorting or culling of the cultured organism after harvest and the washing or removal of surface materials or organisms prior to or after harvest, no processing of any aquaculture product shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located landward of the ordinary high water mark.

8.02 C. 1. k. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act, RCW Chapter 90.48. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
8.02 C. 1. l. Predator control shall not involve killing or harassment of birds or mammals. Approved controls include, but are not limited to, overhead netting for birds. The use of other non-lethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, as required.

8.02 C. 1. m. In the event of a significant fish kill at the site of a net pen facility, the aquaculture operator shall immediately report to the Okanogan County Health District stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence. Permits shall include provisions for adjustment or termination of the project at any time if such an event cannot be remediated to the satisfaction of the Health District may be required.

8.02 C. 1. n. All floating and submerged aquaculture structures and facilities in shoreline waters shall be marked in accordance with U.S. Coast Guard requirements.

8.02 C. 1. o. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be addressed through direct coordination between the applicant and the affected tribe(s) as part of the permit review process.

8.02 C. 1. p. Aquaculture structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the local government with jurisdiction shall require the posting of a bond commensurate with the cost of removal or repair. Said government may abate an abandoned or unsafe structure pursuant to the provisions of Chapter 11 of this SMP or the relevant chapters of the Pateros Municipal Code.

8.02 C. 2. Aquaculture - Designation Specific Requirements

8.02 C. 2. a. Aquatic, Natural

8.02 C. 2. a. 1) Conditional use permit

8.02 C. 2. b. Shoreline Recreation,

8.02 C. 2. b. 1) All aquaculture located upland of the aquatic zone shall be prohibited.

8.02 C. 2. c. Urban Conservancy, Shoreline Residential, High Intensity

8.02 C. 2. c. 1) Requires a shoreline substantial development permit.

8.02 D. Archaeological, Cultural, Educational, Historic and Scientific Resources

8.02 D. 1. Archaeological, Cultural, Educational, Historic and Scientific Resources - General Use Regulations

The following regulations apply to all shoreline uses and activities in all shoreline designations and on all sites within shoreline jurisdiction having archaeological, cultural, or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP) and/or with local jurisdictions, including the City, Okanogan County, the Colville Confederated Tribes (CCT), the Yakama Indian Nation (YIN) and affected Indian tribes and bands; or that have been or may be inadvertently uncovered.
8.02 D. 1. a. Archaeological sites are subject to the National Historic Preservation Act, as amended (16USC470), RCW 27.44 (Indian Graves and Records), RCW 27.53 (Archaeological Sites and Resources), and WAC 25-48 (Archaeological Excavation and Removal Permit).

8.02 D. 1. b. All Shorelines of the State and any other sites identified by the DAHP and/or the CCT or YIN as having a high probability of containing significant archaeological and historic resources shall be considered suspected historic, cultural, or archaeological resources.

8.02 D. 1. c. Known or suspected historic, cultural, and archaeological sites:

8.02 D. 1. c. 1) Notification of DAHP, or CCT and/or YIN and, if required, preparation of an evaluation and a report meeting the minimum reporting standards of the DAHP or Colville and/or Yakama Tribes (as appropriate). Such a report shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological, cultural, or historic resources, regardless of whether a shoreline permit or exemption is required.

8.02 D. 1. c. 2) Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction shall require an evaluation and a report meeting the minimum reporting standards of the DAHP, Colville and/or Yakama Tribes (as appropriate), prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site.

i. The fee for the services of the cultural resource management professional shall be paid by the applicant. The applicant shall submit a minimum of five (5) copies of the site assessment to the Administrator for distribution to the applicable parties for review.

ii. If the evaluation identifies the presence of significant historic, cultural, or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61. The fee for the services of the cultural resource management professional shall be paid by the applicant. In the preparation of such plans, the cultural resource management professional shall solicit comments from the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five (5) copies of the CRMP to the Administrator for distribution to the applicable parties for review.
iii. The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic, cultural, and archaeological resources and appropriate mitigating measures. The Administrator shall consult with the DAHP, the History and Archeology Department of the CCT, and any affected Indian or First Nations tribes or bands prior to approval of the CRMP.

iv. The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic, cultural, and archaeological resource management concerns involved.

8.02 D. 1. c. 3) Upon receipt of a complete development permit application in an area of known or suspected historic, cultural, or archaeological resources, the local government with jurisdiction shall notify and request a recommendation from appropriate agencies, including the DAHP, the CCT, and any Indian or First Nations tribes or bands known to be affected. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever feasible.

Notification shall include the following information:

i. The date of application, the date of notice of completion of the application, and the date of the notification;

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

iii. 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 local government with jurisdiction;

iv. The identification of other permits not included in the application, to the extent known by the local government with jurisdiction;

v. 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;

vi. Any other information determined appropriate by the local government with jurisdiction;

vii. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency, if they have been identified at the time of notice;

viii. A statement of the limits of the comment period and the right of each agency to comment on the application within a thirty (30) day time period, request a copy of the decision once made, and appeal a decision when allowed by law.

8.02 D. 1. c. 4) In granting shoreline permits or statements of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction may attach conditions to provide sufficient time and/or conditions for consultation with the DAHP, the CCT, and any affected Indian or First Nations tribes or bands, and to ensure that historic, cultural, and archaeological resources are properly protected, or
for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic, cultural, and archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the DAHP pursuant to RCW 27.44 and RCW 27.53 may apply in addition to the provisions of this SMP.

8.02 D. 1. d. Inadvertent Discovery

8.02 D. 1. d. 1) All shoreline permits shall contain provisions requiring that, whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development in shoreline areas, work on that portion of the development site shall be stopped immediately, the site secured, and the find reported as soon as possible to the Administrator.

8.02 D. 1. d. 2) Upon notification of such find, the property owner shall notify the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Notification to agencies shall include the information specified for notification under the heading “Known or suspected historic, cultural, and archaeological sites” above.

8.02 D. 1. d. 3) Upon notification of such find, the Administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the parties listed above, the Administrator may require that an immediate evaluation be conducted or may allow stopped work to resume. The evaluation shall meet the minimum reporting standards of the DAHP and shall be conducted by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, to determine the presence of significant historic, cultural, or archaeological resources. The fee for the services of the cultural resource management professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the evaluation and accompanying report to the Administrator for distribution to the applicable parties for review.

8.02 D. 1. d. 4) If an evaluation is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the evaluation is completed. The evaluation shall be distributed to the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected for a thirty (30) day review period or, in the case of inadvertent discovery of human remains, a thirty (30) day review period to determine the significance of the discovery. If the above listed agencies or governments have determined that the site is not significant, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, stopped work may resume.

8.02 D. 1. d. 5) Upon receipt of a positive determination of a site’s significance, the Administrator may invoke the provisions for known sites, above, for a Cultural Resource Management Plan.

8.02 D. 1. e. The requirements of this section shall not apply where an applicant has obtained an approved Archeological Excavation and Removal permit from the DAHP pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.
8.02 D. 2. Archaeological, Cultural, Educational, Historic and Scientific Uses - Designation specific requirements

8.02 D. 2. a. Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential, High Intensity

8.02 D. 2. a. 1) Exempt, if a low intensity use and provided that no significant ecological impact on the area will result.

8.02 E. Boating Facilities

8.02 E. 1. Boating Facilities - General Regulations (including docks, marinas, launches, moorage)

8.02 E. 1. a. When establishing regulation of motorized vs non-motorized uses, whether by Okanogan County or the city of Pateros, hours and other limitations on boating use of waters in and near Pateros, the regulations shall be based, in part, on protection of shoreline functions and values.

8.02 E. 1. b. Mitigation for any adverse development impacts of boating facilities shall be required. On-site mitigation shall be preferred; however, in cases in which meaningful on-site mitigation is not feasible, off-site mitigation may be allowed. In such instances a mitigation management plan shall be required, and shall specify a suitable mitigation site. Adverse development impacts to adjacent properties shall not be allowed.

8.02 E. 1. c. New boating facilities shall be consistent with the applicable local comprehensive and recreation plans. When new sites are considered, sufficient evidence must be presented to show that existing public and commercial marinas, docks, and boat launches are inadequate and cannot be expanded to meet regional demand.

8.02 E. 1. d. For commercial and public boating facilities, the perimeter of parking and storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas, using primarily native, self-sustaining vegetation from the recommended list (Appendix E)). Landscaping along the waterward side shall also be required. The permit application submittal shall identify the size, location, and species of plants that will be used.

8.02 E. 1. e. Boating facilities shall be located where no or minimal shoreline stabilization will be necessary and where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other maintenance activities.

8.02 E. 1. f. When plastics and other non-biodegradable materials are used in boating facilities, precautions shall be taken to ensure their containment.

8.02 E. 1. g. Boating facility design shall minimize interference with geohydraulic processes and disruption of existing shore forms.

8.02 E. 1. h. Parking facilities serving a boating facility shall be located outside shoreline jurisdiction, or, if that is not feasible, shall be located landward of the Zone 2 - Use Buffer (Table 8.1).
8.02 E. 1. i. Boating facilities, including boat lifts, and navigation aids shall be positioned so as not to be a hazard to navigation. To minimize impacts to navigation, boating facilities, including docks, piers, floats, etc… shall extend no farther into the Methow or Columbia than the minimum required for compliance with the standards of the Douglas County PUD, or 100 feet, whichever is less.

8.02 E. 1. j. Boating facilities shall provide public access in accordance with Section 8.02 K Public Access.

8.02 E. 1. k. Boating facilities shall be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials is encouraged.

8.02 E. 1. l. The City shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington departments of Ecology, of Fish and Wildlife, and of Health; and shall make available to those agencies the Shoreline Inventory and Characterization (Appendix A and Chapter 4) and maps developed as part of this master program. The local government with jurisdiction shall consider the comments received from those agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.

8.02 E. 1. m. Overwater structures shall only be placed on portions of the shorelines where the natural flows and velocities shall not be impeded by the structure and where the placement of the structure will not restrict the natural scour and depositional actions of the shoreline.

8.02 E. 1. n. New pier or dock construction, excluding docks accessory to single-family residences, shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

8.02 E. 2. Marina-Specific Regulations:

8.02 E. 2. a. Where allowed, marinas shall be permitted only as a conditional use.

8.02 E. 2. b. Public access, both physical and visual, shall be required as part of all marinas.

8.02 E. 2. c. Marinas shall be constructed in accordance with the provisions all applicable current state and local regulations.

8.02 E. 2. d. Marinas or expanded constructed after the effective date of these regulations that provide moorage space for watercraft-shall provide sewage pump-out facilities.

8.02 E. 2. e. Marinas shall be sited, designed, and built to minimize conflicts with agriculture.

8.02 E. 2. f. Marinas shall be designed to not interfere with existing navigation on the Columbia and Methow rivers.
8.02 E. 3. **Marinas - Designation Specific Requirements**

8.02 E. 3. a. *Aquatic*

8.02 E. 3. a. 1) Marinas are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

8.02 E. 3. b. *Natural*

8.02 E. 3. b. 1) Prohibited.

8.02 E. 3. c. *Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity*

8.02 E. 3. c. 1) Conditional use permit.

8.02 E. 4. **Docks and Moorage - Specific Regulations**

The regulations that follow are applicable to all docks, shared moorage facilities, and other overwater boating facilities, and the word “dock” shall apply to all such facilities.

8.02 E. 4. a. The Administrator shall require and use the following information in his or her review of proposals for docks:

8.02 E. 4. a. 1) Description of the proposed structure, including its size, location, design, materials, and any shoreline stabilization or other modifications required by the project.

8.02 E. 4. a. 2) Proposed location of the dock relative to property lines and the ordinary high water mark.

8.02 E. 4. a. 3) Orientation of the dock relative to neighboring docks.

8.02 E. 4. a. 4) Anticipated impacts on views and on access to existing docks, and other reasonably foreseeable impacts on adjacent properties.

8.02 E. 4. a. 5) Any provisions for public access, enjoyment and use of the water and shorelines.

8.02 E. 4. b. Docks shall not significantly interfere with the use of shoreline waters or with public use of shorelines. The length of any dock shall be the minimum necessary to assure navigability and protect public use of the water body. On “T” or “L” shaped docks, the length of the extension or extensions perpendicular to the main body of the dock shall not exceed 50% of the length of the lot property line at the OHWM, or the upland property line adjacent to the lake, as shown in Figure 8.2 a. Docks may be prohibited where necessary to protect navigation or public use of the water body. Docks not attached to the shoreline may be allowed where the dock serves a water-dependent or water-oriented use and measures have been taken to reduce the hazard to navigation.
8.02 E. 4. c. All docks shall be constructed and maintained in a safe condition. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Abandoned or unsafe docks shall be removed or repaired promptly by the adjoining upland property owner. Where any such structure constitutes a hazard to the public, the local government with jurisdiction may, following notice to the owner, abate the structure if the owner fails to do so within 90 days. Said government may impose a lien on the associated shoreline property in an amount equal to the cost of the abatement.

8.02 E. 4. d. No over-water application of preservative treatment or other chemical compounds shall be permitted. Docks may be painted provided brush application is used and best management practices are followed to prevent paint from coming in contact with the water.

8.02 E. 4. e. Any person or succession of different persons resides on the vessel in a specific location, and/or in the same area on more than a total of thirty days in any forty-day period or on more than a total of ninety days in any three hundred sixty-five-day period results in a “Residential Use” Status and is prohibited. "In the same area" means within a radius of one mile of any location where the same vessel previously moored or anchored on state-owned aquatic lands. A vessel that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is considered used as a recreational or transient vessel.

8.02 E. 4. f. Bulk storage for gasoline, oil, and other petroleum products is prohibited on docks.

8.02 E. 4. g. All docks shall be designed and constructed in compliance with the following standards:

  8.02 E. 4. g. 1) Pilings must be structurally sound prior to placement in the water.
  8.02 E. 4. g. 2) Piles, floats, or other materials in direct contact with the water must be approved by applicable state agencies, including the Washington Department of Fish and Wildlife and, in the case of state owned bedlands, the Washington Department of Natural Resources.
  8.02 E. 4. g. 3) Floating docks shall include stops to keep the floats off the bottom of the water body at low water level.
  8.02 E. 4. g. 4) Overhead wiring or plumbing is not permitted on docks.
  8.02 E. 4. g. 5) Lighting shall be the minimum necessary to locate the dock at night and shall focus downward to minimize glare. Any dock extending more than fifty feet (50') beyond the OHWM shall have white lights marking the outer dimensions. In all cases, solar-powered lights shall be preferred.
  8.02 E. 4. g. 6) Docks with feet or plates that rest on the lakebed or streambed are preferred over those requiring excavation and footings.
  8.02 E. 4. g. 7) Dock design, placement, and orientation shall allow for access to existing docks in the vicinity and shall minimize impacts on adjacent properties, including impacts on views.

8.02 E. 4. h. All residential moorage facilities shall be subject to number, size, and setback standards as follows:

  8.02 E. 4. h. 1) Number:
i. All new residential developments (including subdivisions is moorage facilities are proposed) serving more than two dwelling units that intend to provide moorage facilities must create shared moorage facilities rather than individual docks. Such development, including, new residential subdivisions or planned developments shall be required to indicate the location of shoreline access to proposed moorage facilities at the time of plat or subdivision.

ii. All multi-family residences proposing to provide moorage facilities shall be limited to a single shared moorage facility, provided that the Administrator may authorize more than one shared moorage facility if, based on conditions specific to the site, a single facility would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional facility or facilities will have no net impact on shoreline ecological resources.

iii. For existing residential lots, no more than one dock shall be permitted for each shoreline lot.

8.02 E. 4. h. 2) Size:

i. The length of any dock shall be the minimum necessary to accomplish moorage for the intended boating use and shall be only long enough to accommodate slips for one boat for each residence served plus one slip for transient moorage.

ii. A dock serving a single family use over 200 square feet or 25 feet in length is allowed only as a conditional use in all shoreline designations.

8.02 E. 4. h. 3) Side yard setbacks:

i. Docks shall be set back a minimum of five feet (5’) from side property lines, except that shared moorage facilities may be located adjacent to or upon a side property line when mutually agreed to by a legal instruments such as a contract, covenant or easement with the owners of all properties with access privilege. A copy of the contract, covenant or easement must be recorded with the Okanogan County Auditor and filed with the application for permit or shoreline exemption.

8.02 E. 4. i. All shared moorage facilities shall be subject to the following standards:

8.02 E. 4. i. 1) Shared moorage facilities shall include no more than one moorage space per dwelling unit or lot and one transient slip.

8.02 E. 4. i. 2) The size of the moorage facility shall be the minimum necessary to accomplish moorage for one boat for each residence served plus one transient slip, and the moorage facility shall be configured to cause minimal disturbance to shoreline resources.

8.02 E. 4. i. 3) Any requirement for shared moorage shall be documented with a restriction on the face of the plat. Restrictive covenants prohibiting individual docks and requiring shared moorage, and providing that the covenants shall not be altered without the approval of the Administrator, shall be recorded with the Okanogan County Auditor.
**8.02 E. 4. i. 4)** If shared moorage is provided, the applicant shall file a legally enforceable joint use agreement or other legal instrument at the time the permit application for the mooring facility is submitted. Said instrument shall, at minimum, address the following:

i. Provisions for maintenance and operation;

ii. Easements or tracts for community access; and

iii. Provisions for joint or community use for all benefiting parties.

**8.02 E. 4. i. 5)** Any site for shared moorage shall be owned in undivided interest by property owners or managed by the homeowners’ association as a common easement within the residential development. Shared moorage facilities shall be available to property owners in the residential development for community access.

**8.02 E. 5. Docks and Moorage - Designation Specific Requirements:**

**8.02 E. 5. a. Aquatic**

**8.02 E. 5. a. 1)** Moorage facilities are allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

**8.02 E. 5. b. Natural**

**8.02 E. 5. b. 1)** Prohibited.

**8.02 E. 5. c. Urban Conservancy**

**8.02 E. 5. c. 1)** Moorage facilities for motor-craft are prohibited.

**8.02 E. 5. c. 2)** Commercial wet moorage may be allowed through a CUP.

**8.02 E. 5. d. High Intensity, Shoreline Recreation and Shoreline Residential**

**8.02 E. 5. d. 1)** Non-commercial moorage facilities shall be allowed subject to a shoreline substantial development permit.

**8.02 E. 5. d. 2)** Commercial wet moorage may be allowed through a CUP in Shoreline Recreation;

**8.02 E. 5. d. 3)** A SDP is required for commercial moorage in High Intensity.

**8.02 E. 5. d. 4)** No commercial moorage shall be allowed in Shoreline Residential.

**8.02 E. 6. Float-Specific regulations:**

**8.02 E. 6. a.** No more than one float shall be permitted for each shoreline lot.

**8.02 E. 6. b.** Floats shall not significantly interfere with navigation or with public use of shorelines. No portion of the float shall be placed more than eighty feet (80’) from the OHWM or the point at which the depth of the water exceeds seven feet (7’) during high water. Floats may be prohibited where necessary to protect navigation or public use of the water body.

**8.02 E. 6. c.** No float shall have more than one hundred (100’) square feet of surface area.
8.02 E. 6. d. All multi-family residences proposing to provide floats shall be limited to a single shared float, provided that the Administrator may authorize more than one shared float if, based on conditions specific to the site, a single float would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional float or floats will have no net impact on shoreline ecological resources.

8.02 E. 7. Floats - Designation Specific Requirements:

8.02 E. 7. a. Aquatic, adjoining Urban Conservancy, Natural
8.02 E. 7. a. 1) Conditional use permit.
8.02 E. 7. b. Aquatic, adjoining Shoreline Recreation, Shoreline Residential, and High Intensity
8.02 E. 7. b. 1) Substantial development permit.

8.02 E. 8. Covered Moorage (e.g., overhead boat & jet ski canopies) - Designation Specific Requirements

8.02 E. 8. a. Aquatic
8.02 E. 8. a. 1) Allowed or prohibited based on regulation for adjoining shoreline designation.
8.02 E. 8. b. Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity
8.02 E. 8. b. 1) All new boat garages are prohibited.

8.02 E. 9. Boat Lifts - Designation Specific Requirements

8.02 E. 9. a. Aquatic
8.02 E. 9. a. 1) Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.
8.02 E. 9. b. Natural
8.02 E. 9. b. 1) Prohibited.
8.02 E. 9. c. Shoreline Recreation, Urban Conservancy, Shoreline Residential, and High Intensity:
8.02 E. 9. b. 1) Substantial development permit.

8.02 E. 10. Commercial and Public Boat Launch Ramps - Designation Specific Requirements

No private boat launches designed with hard surfaces for motorized water craft are allowed. Private, hand launches shall require an SPD in all shoreline environments. Only commercial and public hardened launches are allowed through either an SDP or CUP permitting as specified in section 8.02 E 11 & 12.

8.02 E. 10. a. Aquatic
8.02 E. 5. a. 1) Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.
8.02 E. 10. b. Natural
8.02 E. 10. b. 1) Prohibited

8.02 E. 10. c. **Urban Conservancy, Shoreline Residential**
8.02 E. 10. c. 1) Commercial launches: prohibited.
8.02 E. 10. c. 2) Public launches: Substantial Development Permit.

8.02 E. 10. d. **High Intensity, Shoreline Recreation**
8.02 E. 10. c. 1) Commercial: Substantial Development Permit.
8.02 E. 10. c. 2) Public: Substantial Development Permit.

8.02 E. 11. **Individual Private Motorized Boat Launch Ramps - Designation Specific Requirements**
8.02 E. 11. a. **Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity**
8.02 E. 11. a. 1) Prohibited.

8.02 E. 12. **Individual Private Pervious Surface (sand, cobble) Hand Launch Boat/Raft ramps – Designation Specific Requirements**
8.02 E. 12. a. **Aquatic**
8.02 E. 12. a. 1) Allowed or prohibited based on the regulation for the adjoining upland shoreline designation.

8.02 E. 12. b. **Natural, Urban Conservancy, Shoreline Residential, High Intensity and Shoreline Recreation**
8.02 E. 12. b. 1) Substantial Development Permit.

8.02 E. 13. **Mooring Buoys/Float Plane Moorage Accessory to Permitted Moorage - Designation Specific Requirements**
8.02 E. 13. a. **Natural, Aquatic, waterward of Urban Conservancy**
8.02 E. 13. a. 1) Conditional use permit.

8.02 E. 13. b. **Aquatic, waterward of Shoreline Recreation, Shoreline Residential, and High Intensity environments**
8.02 E. 13. b. 1) Substantial development permit.

8.02 F. **Commercial Uses and Activities**

8.02 F. 1. **Commercial Uses and Activities – General Regulations**
8.02 F. 1. a. Commercial developments permitted in shoreline areas are, in descending order of preference:
8.02 F. 1. a. 1) Water-dependent uses;
8.02 F. 1. a. 2) Water-related uses;
8.02 F. 1. a. 3) Water-enjoyment uses; and
8.02 F. 1. a. 4) Non-water-oriented uses
8.02 F. 1. b. The Administrator shall require and use the following information in his or her review of commercial development proposals:

8.02 F. 1. b. 1) Consistency with local comprehensive plan and zoning;
8.02 F. 1. b. 2) Specific nature of the commercial activity;
8.02 F. 1. b. 3) Need for shoreline frontage; determination if use qualifies as water-dependent, water-related or water-enjoyment
8.02 F. 1. b. 4) Provisions for public visual and/or physical access to the shoreline;
8.02 F. 1. b. 5) Provisions to ensure that the development will not result in loss of shoreline functions including conditions for ecological restoration;
8.02 F. 1. b. 6) Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
8.02 F. 1. b. 7) The Shoreline Inventory and Characterization (Appendix A and Chapter 4) and accompanying maps.

8.02 F. 1. c. Nonwater-oriented commercial uses are prohibited in all shoreline designations unless they meet the following criteria:

8.02 F. 1. c. 1) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
8.02 F. 1. c. 2) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
8.02 F. 1. c. 3) In areas designated or zoned for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another developed property, flood control structure or public right of way.
8.02 F. 1. c. 4) Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
8.02 F. 1. c. 5) The use serves a function supportive of water oriented or water dependent uses or is otherwise consistent with approved community planning.

8.02 F. 1. d. Commercial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area.

8.02 F. 1. d. 1) All commercial loading and service areas shall be located on the upland (landward) side of the commercial structure to the maximum extent practical or provisions shall be made to separate and screen the loading and service areas from the shoreline.
8.02 F. 1. d. 2) Commercial developments where landscaping is proposed shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. The permit application submittal shall identify the size, location, and species of plants that will be used.

8.02 F. 1. e. Water-related and water dependent commercial development on private and public lands shall be required to consider incorporating public access and ecological restoration as mitigation for impacts to shoreline functions and values unless public access cannot be provided which does not result in significant interference with operations or hazards to life or property, where commercial use is proposed for location on land in public ownership, public access shall be required. Refer to Section 8.03 K and WAC 173-26-221(4) for public access provisions. Any intended public access facilities must be platted, or incorporated into a binding site plan, improved, and maintained and in compliance with local comprehensive planning and shoreline recreational access planning.

8.02 E. 2. Commercial Uses and Activities - Designation Specific Requirements:

8.02 F. 2. a. Aquatic

8.02 F. 2. a. 1) Commercial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

8.02 F. 2. a. 2) Conditional use permit.

8.02 F. 2. b. Natural

8.02 F. 2. b. 1) Prohibited.

8.02 F. 2. c. Urban Conservancy Shoreline Recreation, Shoreline Residential and High Intensity

8.02 F. 2. c. 1) Commercial development is allowed with a substantial development permit provided such development is consistent with local zoning regulations, is subject to the development standards in this SMP, those standards set forth in Table 8.1, and as follows:

i. Commercial development shall be water-oriented, except as allowed in 8.02 F.1. c.

8.02 G. Industrial Uses and Activities

8.02 G. 1. Industrial Uses and Activities – General Regulations

8.02 G. 1. a. Industrial developments permitted in shoreline areas are, in descending order of preference:

8.02 G. 1. a. 1) Water-dependent uses;

8.02 G. 1. a. 2) Water-related uses;

8.02 G. 1. a. 3) Water-enjoyment uses; and

8.02 G. 1. a. 4) Non-water-oriented uses
8.02 G. 1. b. New non water-oriented industrial development shall be prohibited in all shoreline designations except when:

8.02 G. 1. b. 1) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

8.02 G. 1. b. 2) Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

8.02 G. 1. b. 3) In areas designated or zoned for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

8.02 G. 1. c. The Administrator shall require and use the following information in his or her review of industrial development proposals:

8.02 G. 1. c. 1) Consistency with local comprehensive plans and zoning;

8.02 G. 1. c. 2) Specific nature of the industrial activity;

8.02 G. 1. c. 3) Need for shoreline frontage;

8.02 G. 1. c. 4) Provisions for public visual and/or physical access to the shoreline;

8.02 G. 1. c. 5) Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;

8.02 G. 1. c. 6) Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and

8.02 G. 1. c. 7) The Shoreline Inventory and Characterization (Appendix A and Chapter 4) and accompanying maps.

8.02 G. 1. d. Industrial development shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-221(4).

8.02 G. 1. e. Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

8.02 G. 1. f. Where industrial development is allowed, it shall be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
8.02 G. 1. g. Industrial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in Table 8.1 and/or prescribe reasonable use-intensity and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

8.02 G. 1. h. New over-water construction for industrial uses is prohibited unless it can be shown to be essential to a water-dependent industrial use.

8.02 G. 1. i. All loading and service areas shall be located on the upland (landward) side of the industrial facility or provisions shall be made to separate and screen the loading and service areas from the shoreline, unless such provisions are infeasible due to the specific nature of the water-dependent industrial use or the proposed circulation poses a safety hazard to existing traffic patterns.

8.02 G. 1. j. Industrial development on private and public lands shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-241(3)(f). Where industrial use is proposed for location on land in public ownership, public access shall be required. Any intended public access facilities must be platting, or incorporated into a planned development or binding site plan, improved, and maintained in compliance with local comprehensive planning and shoreline recreational access planning.

8.02 G. 1. k. Industrial developments shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Appendix E) are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used.

8.02 G. 1. l. Drainage and surface runoff from industrial developments shall be controlled so that pollutants will not be carried into water bodies.

8.02 G. 2. Industrial Uses - Designation Specific Requirements:

8.02 G. 2. a. Aquatic

8.02 G. 2. a. 1) Industrial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

8.02 G. 2. a. 2) All such uses shall require a conditional use permit and be subject to the development standards set forth in Table 8.1.

8.02 G. 2. b. Natural,

8.02 G. 2. b. 1) Prohibited.

8.02 G. 2. c. Urban Conservancy
8.02 G. 2. c. 1) Industrial development shall be limited to water-dependent uses that require an over-the-water location.

8.02 G. 2. c. 2) All such uses shall require a conditional use permit and be subject to the development standards set forth in Table 8.1.

8.02 G. 2. d.  Shoreline Recreation and Shoreline Residential

8.02 G. 2. d. 1) New industrial development shall be prohibited.

8.02 G. 2. d. 2) Expansion of pre-existing water-dependent industrial uses in these zones shall be permitted through a conditional use permit.

8.02 G. 2. d. 3) Expansion of pre-existing industrial uses shall not alter the visual character of the zone and be subject to mitigations measures that will enhance the natural character of the shoreline.

8.02 G. 2. e.  High Intensity

8.02 G. 2. e. 1) Industrial development is allowed with a substantial development permit provided such development is conforming to the underlying land use zone or associated with a permitted agricultural or industrial use and be subject to the development standards in this SMP and those set forth in Table 8.1.

8.02 G. 2. e. 2) Industrial development shall be water dependent, water related or water-oriented or be physically separated from the shoreline by another property under separate ownership, a flood control structure, or public right of way.

8.02 G. 2. e. 3) In no case shall non-water dependent new industrial development warrant the construction of flood protection structures or shoreline stabilization.

8.02 H.  Mining Uses and Activities

8.02 H. 1.  Mining Uses and Activities – General Regulations

8.02 H. 1. a. Mineral prospecting and placer mining are allowed subject to compliance with the current edition of the Washington State Department of Fish and Wildlife’s Gold and Fish pamphlet, all other prospecting and placer mining activities at different times or locations, or with different equipment than allowed in WDFW Gold and Fish shall require a Conditional Use Permit. This provision does not apply to mining that meets the definition of a substantial development (See Chapter 2 – Definitions).

8.02 H. 1. b. All surface mining shall be conducted in strict conformance with the Washington State Surface Mining Reclamation Act, Chapter 78.44 RCW. Surface mining permits shall be coordinated with state and federal permits.

8.02 H. 1. c. Mining not meeting the definition of mineral prospecting or placer mining shall require a conditional use permit.

8.02 H. 1. d. In all shoreline designations, mining shall only be allowed by Conditional Use Permit and only when the proposed mine site has been identified as a mineral land of long term commercial significance.

8.02 H. 1. e. Mining waterward of the ordinary high-water mark:

8.02 H. 1. e. 1) Mining waterward of the ordinary high-water mark) of a river shall not be permitted unless:
i. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

ii. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

8.02 H. 1. e. 2) The determinations required by Section 8.02 H.1. a., above, shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a) and shall be integrated with required SEPA review.

8.02 H. 1. e. 3) In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, local government shall require compliance with the provisions of 8.02.H.1.f and 8.02 H. 1. g. to the extent that no such review has previously been conducted. Where there has been prior review, local government shall review previous determinations comparable to the requirements of this section to assure compliance with the provisions of Section 8.02 H. 1. g. and 8.02 H. 1 g.

8.02 H. 1. e. 4) The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231 (3)(f).

8.02 H. 1. f. The Administrator shall require and use the following information in his or her review of mining proposals (except mineral prospecting and placer mining):

8.02 H. 1. f. 1) Materials to be mined;
8.02 H. 1. f. 2) Need for those materials;
8.02 H. 1. f. 3) Need for shoreline location;
8.02 H. 1. f. 4) Quantity of materials to be mined, by type;
8.02 H. 1. f. 5) Quality of materials to be mined, by type. For certain minerals, an evaluation by a geologist licensed under the provisions of RCW 18.220 may be required;
8.02 H. 1. f. 6) Mining technique and equipment to be used;
8.02 H. 1. f. 7) Depth of overburden and proposed depth of mining;
8.02 H. 1. f. 8) Lateral extent and depth of total mineral deposit;
8.02 H. 1. f. 9) Cross section diagrams indicating present and proposed elevations and/or extraction levels;
8.02 H. 1. f. 10) Existing drainage patterns, seasonal or continuous, and proposed alterations thereof including transport and deposition of sediment and channel changes that may result;
8.02 H. 1. f. 11) Proposed means of controlling surface runoff and preventing or minimizing erosion and sedimentation including impacts to banks on both sides of the excavation;
8.02 H. 1. f. 12) The location and sensitivity of any affected critical areas;
8.02 H. 1. f. 13)  Subsurface water resources and aquifer recharge areas, including origin, depth, and extent;

8.02 H. 1. f. 14)  Quality analysis of overburden, excavation materials, and tailings, with plans for storage, use, or disposition;

8.02 H. 1. f. 15)  Mining plan and scheduling, including seasonal, phasing, and daily operation schedules;

8.02 H. 1. f. 16)  Reclamation plan that meets the requirements of this master program and Chapter 78.44 RCW (for surface mining operations only);

8.02 H. 1. f. 17)  Screening, earthen berm buffering, and/or fencing plans; and

8.02 H. 1. f. 18)  Impacts to aquatic and shoreline habitat.

8.02 H. 1. g.  Mining operations (except mineral prospecting and placer mining) shall be sited, designed, conducted, and completed (including reclamation) to ensure no net loss of shoreline ecological functions, including watershed-scale functions and cumulative impacts. A reclamation plan prepared by a qualified professional and providing for restoration of slope stability, water conditions, safety conditions, and, where relevant, vegetative cover shall be required for any new mining and associated activities. Meeting the “no net loss” standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation, and shall be based on an evaluation of the final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species. The proposed subsequent use of mined property must be consistent with the provisions of the environment designation in which the property is located. Performance security requirements are as follows:

8.02 H. 1. g. 1)  Surface mining operations must comply with the relevant performance security requirements of RCW 78.44.

8.02 H. 1. g. 2)  A public or governmental agency shall not be required to post performance security.

8.02 H. 1. g. 3)  All other approved mining operations shall be required to post performance security in an amount adequate to complete reclamation, based on an approved reclamation plan.

8.02 H. 1. h.  Mining operations shall comply with all local, state, and federal water quality standards and pollution control laws. Operations shall use effective techniques to prevent or minimize surface water runoff, erosion and sedimentation; prevent reduction of natural flows; protect all shoreline areas from acidic or toxic materials; and maintain the natural drainage courses of all streams. Surface water runoff shall be impounded as necessary to prevent accelerated runoff and erosion.

8.02 H. 1. i.  Overburden, mining debris, and tailings shall not be placed in water bodies or floodways and shall be stored and protected so as to prevent or minimize erosion or seepage to surface and ground waters.

8.02 H. 1. j.  Precautions shall be taken to insure that stagnant or standing water especially that of a toxic or noxious nature does not develop.

8.02 H. 1. k.  In no case shall mining operations impair lateral support and thereby result in earth movements extending beyond the boundaries of the site.
8.02 H. 1. If substantial evidence indicates that mining operations are causing, or continued operation would cause, significant and adverse impacts to water quality, habitat, or any shoreline ecological function, the Administrator shall terminate the shoreline permit for mining or impose further conditions on the mining operation to ensure no net loss of shoreline ecological functions.

8.02 H. 2. Mining - Designation Specific Requirements:

8.02 H. 2. a. Aquatic

8.02 H. 2. a. 1) Mining shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM.

8.02 H. 2. a. 2) Mineral prospecting and placer mining are allowed subject to the provisions of Section 8.02 H. 1. a.

8.02 H. 2. b. Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity

8.02 H. 2. b. 1) Mining is prohibited, unless the subject property has been designated as mineral lands of long-term commercial significance which shall require a conditional use permit.

8.02 H. 2. b. 2) Mineral prospecting and placer mining are allowed subject to the provisions of this section, above.

8.02 I. Municipal (includes all local governments)

Municipal uses are those in support of local government functions and services (e.g. public schools, city hall, maintenance facilities, hospitals, etc…). For the purposes of this SMP, recreational uses and utility facilities are excluded and shall comply with applicable sections.

8.02 N. 1. Municipal – General Regulations

8.02 I. 1. a. Non-water-oriented municipal uses will be permitted in shoreline areas only when no other feasible location is available, and only in compliance with standards in this SMP including bulk and dimensional standards established in Table 8.1 and shall be in compliance with the clearing and grading section.

8.02 I. 1. b. The Administrator shall require and use the following information in his or her review of municipal use proposals:

8.02 I. 2. b. 1) Specific nature of the proposed activity;

8.02 I. 2. b. 2) Need for shoreline location; including minimizing portion of use within shoreline jurisdictions.

8.02 I. 2. b. 3) Other locations considered and the reasons for choosing a shoreline site;

8.02 I. 2. b. 4) Provisions for public visual and/or physical access to the shoreline;

8.02 I. 2. b. 5) Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;

8.02 I. 2. b. 6) Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
8.02 I. 2. b. 7) The Shoreline Inventory and Characterization (Appendix A and Chapter 4) and maps developed as part of this SMP.

8.02 I. 1. c. Municipal uses shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area and result in no net loss of shoreline function. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in Table 8.1 and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

8.02 I. 1. d. All loading and service areas shall be located on the upland (landward) side of the principal structure or provisions shall be made to separate and screen the loading and service areas from the shoreline.

8.02 I. 1. e. Municipal uses shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall include a landscape plan identifying the size, location, and species of plants that will be used.

8.02 I. 1. f. Drainage and surface runoff from municipal uses shall be controlled so that pollutants will not be carried into water bodies complying with the Eastern Washington Stormwater Manual.

8.02 I. 1. g. Public access facilities must be provided, dedicated, improved, and maintained as part of any shoreline municipal use.

8.02 I. 1. h. Municipal uses shall not be allowed in wetlands, or shoreline riparian vegetation conservation areas (Zone 1 and 2) or their buffers without following mitigation sequencing, complying with other parts of this SMP.

8.02 I. 2. Municipal - Designation Specific Requirements:

8.02 I. 2. a. Aquatic

8.02 I. 2. a. 1) Municipal uses shall be allowed or prohibited based on the regulation for the adjoining shoreline designation landward of the OHWM.

8.02 I. 2. b. Natural

8.02 G. 2. b. 1) Municipal Uses are prohibited, except low intensity recreational uses and restoration activities.

8.02 I. 2. c. Shoreline Recreation, Urban Conservancy,

8.02 G. 2. c. 1) Non-water oriented uses and activities require a conditional use permit.

8.02 G. 2. c. 2) Water-oriented uses require a substantial development permit

8.02 I. 2. d. Shoreline Residential and High Intensity

8.02 I. 2. d. 1) Non-water oriented uses and activities require a SDP

8.02 I. 2. d. 2) Water Oriented uses are and activities require a SDP.
8.02 J. Parking

8.02 J. 1. Parking – General Regulations

8.02 J. 1. a. Any new and expanded parking area in a shoreline area shall directly serve an existing (legal at the time of adoption of this SMP) shoreline use.

8.02 J. 1. b. All parking shall be prohibited over water. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use.

8.02 J. 1. c. Parking facilities shall prevent surface water runoff from contaminating water bodies, using the best available technology and best management practices, including complying with applicable Eastern Washington Storm Water Manual, and a maintenance program to assure proper functioning over time of any stormwater facilities required to comply with this regulation.

8.02 J. 1. d. New commercial and industrial parking facilities, necessary to support an authorized use, in shoreline areas shall be sited in compliance with bulk and dimensional standards of Table 8.1, comply with Clearing and Grading Standards and designed to minimize visual, pedestrian, and other transportation network impacts as well as to minimize environmental impact on shoreline resources.

8.02 J. 1. e. Commercial parking facilities shall be adequately screened and landscaped along the waterward side with plants from the recommended list (Appendix E). Where a flood levee exists, it shall be considered screening.

8.02 J. 1. f. Parking facilities that will serve more than one use, such as recreational use on weekends and commercial use on weekdays shall be allowed and preferred to single use parking facilities.

8.02 J. 2. Parking - Designation Specific Regulations

8.02 J. 2. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity

8.02 J. 2. a. 1) Parking as a primary use and commercial parking - prohibited.

8.02 J. 2. b. Aquatic and Natural

8.02 J. 2. b. 1) Parking appurtenant to existing permitted use is prohibited.

8.02 J. 2. c. Shoreline Recreation and Shoreline Residential

8.02 J. 2. c. 1) Parking appurtenant to existing permitted use requires a substantial development permit.

8.02 J. 2. d. Urban Conservancy

8.02 J. 2. d. 1) Parking appurtenant to existing permitted use requires a conditional use permit.

8.02 J. 2. e. High Intensity

8.02 J. 2. e. 1) Parking appurtenant to existing permitted use is allowed.
8.02 K. Public Access

8.02 K. 1. Public Access – General Regulations

8.02 K. 1. a. For the purpose of this SMP, the city of Pateros Comprehensive Plan and Douglas PUD land use policies and recreational plans shall be considered the official public access plans. Additional recreation plans approved by the City Council may be used to supplement public access provisions of the Comprehensive Plan for this SMP, provided said plans are not in conflict with the regulations herein.

8.02 K. 1. b. Development, uses, and activities shall be designed and operated to avoid unnecessarily impairing or detracting from the public's physical or visual access to the water and shorelines.

8.02 K. 1. c. Public access sites shall be dedicated to a public or non-profit entity unless a formal homeowners association or other legal entity exists or will be established to ensure the long term viability of the access.

8.02 K. 1. d. The Signage regulations in Section 8.02 O Signage of this chapter and the Shoreline Development Standards in Table 8.1 have been established in part to prevent impairment of or detraction from visual public access.

8.02 K. 1. e. Provisions for public or community access to the shoreline shall be incorporated into the shoreline development proposal for any action requiring such access unless the applicant demonstrates that such access is infeasible because at least one of the following provisions applies:

8.02 K. 1. a. 1) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practicable means;

8.02 K. 1. a. 2) Inherent security requirements of the use cannot be satisfied through the application of alternative design features, such as fencing or limiting hours of use, or other solutions;

8.02 K. 1. a. 3) Unacceptable environmental harm will result from the public access which cannot be mitigated;

8.02 K. 1. a. 4) Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated;

8.02 K. 1. a. 5) In determining that public access (physical and/or visual) is infeasible the shoreline administrator and applicant shall ensure that all reasonable alternatives have been evaluated, including but not limited to:

i. Regulating access by such means as limiting hours of use to daylight hours;

ii. Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc;

iii. Provision of an access at a site physically separated from the proposal such as a nearby street end, providing off-site public access improvements such as building a shoreline view point or establishment or providing improvements to a trail system.

8.02 K. 1. f. Dedication and improvement of physical public access shall be required as part of all shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, with the following exceptions:
8.02 K. 1. f. 1) Where an approved public access plan developed as part of a regulatory licensing process is submitted. Said public access plan must provide adequate public access to the shoreline, based on a needs analysis. Said public access facilities shall be developed, improved, and maintained as part of an approved Shoreline Recreational Plan and installed in a timely manner in coordination with the approved shoreline development.

8.02 K. 1. f. 2) Where more effective public access to the shoreline can be achieved through implementation of the adopted recreation plan of the local government with jurisdiction, the public entity proposing the development may contribute proportionally to implementation of the recreation plan in lieu of providing public access on site.

8.02 K. 1. g. Dedication and improvement of public physical access shall be required in all shoreline areas as follows:

8.02 K. 1. g. 1) As part of all marina development;

8.02 K. 1. g. 2) As part of commercial boating facilities designed to serve the public or located on and adjoining on publically owned uplands.

8.02 K. 1. g. 3) As part of all new water-enjoyment, water-related and water-dependent commercial and industrial development, while consistent with local comprehensive plans, provided the intended use does not pose a safety threat to the general public.

8.02 K. 1. g. 4) As part of all primary utility development on public land. The requirement may be waived where an approved public access plan has been adopted as part of a regulatory licensing process. Said public access plan must provide adequate public access, based on a needs analysis.

8.02 K. 1. g. 5) As part of all subdivisions of land into more than four parcels while consistent with local comprehensive and recreational public access plans.

8.02 K. 1. g. 6) As part of new structural public flood hazard reduction measures, such as dikes and levees.

8.02 K. 1. g. 7) As part of publicly financed or subsidized shoreline erosion control measures, where feasible, incorporate ecological restoration and public access improvements into the project, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. These shoreline erosion measures shall not restrict existing public access to the shoreline.

8.02 K. 1. h. Adjoining short plats totaling more than four parcels and submitted within 5 years of each other by the same applicant shall be subject to public access dedications.

8.02 K. 1. i. The scope and scale of public access shall be commensurate with the scale of the proposed land use action and the need for public physical and visual access opportunities in the vicinity of the proposed action.

8.02 K. 1. j. In all cases, the minimum width of shoreline public access easements shall be ten feet (10’), unless the Administrator determines that undue hardship would result. In such cases, easement or right-of-way widths may be reduced only to the extent necessary to relieve the demonstrated hardship.
8.02 K. 1. k. Where there is an irreconcilable conflict between water-dependant shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependant uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

8.02 K. 1. l. Rights of navigation shall be protected in conformance with the provisions of this Master Program.

8.02 K. 1. m. Public access sites and facilities shall be designed, constructed, operated, and maintained to result in no net loss of shoreline ecological functions.

8.02 K. 1. n. Public access sites shall be connected directly to the best-suited public street by way of a right of way or easement dedicated, improved, and maintained for public use. This requirement may be modified if the cost would be disproportionate to the scale of the proposed land use action.

8.02 K. 1. o. Any vacation of right-of-way within the shoreline must comply with RCW 35.79.035, “Limitations on vacations of streets abutting bodies of water — Procedure.”

8.02 K. 1. p. Where feasible, and in accordance with the Americans with Disabilities Act (ADA), public access sites shall be made barrier-free for people with disabilities.

8.02 K. 1. q. Required public access sites shall be developed and available for public use at the time of occupancy of the use or activity; or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.

8.02 K. 1. r. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

8.02 K. 1. s. Public access easements shall be recorded on the deed of title and/or on the face of the plat or short plat as conditions running in perpetuity. Said recording with the Okanogan County Auditor's Office shall occur at the time of permit approval. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

8.02 K. 1. t. The standard State-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites.


8.02 K. 1. i. 1) View corridors shall comply with provisions for vegetation management and buffer requirements for the shoreline designation for the project site. View Corridors shall be allowed up to the percentage listed in Table 8.1 but limited to a width of 30 feet, in no case shall a view corridor be approved that will result view corridor greater than 30 feet in width paralleling the shoreline.

8.02 K. 1. i. 2) View corridors may be allowed, subject to the provisions of this section, to provide the general public and property owners with opportunities for visual access to water bodies associated with shoreline lots.

8.02 K. 1. i. 3) Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited.
8.02 K. 1. i. 4) Prior to removing vegetation for a view corridor, the owner of the shoreline parcel on which vegetation alterations are proposed must submit:

i. A signed application;

ii. A scaled graphic which demonstrates the areal extent of the view corridor (width and depth), showing existing vegetation and proposed alterations; and

iii. A graphic and/or site photos for the entire shoreline frontage, which demonstrates that the building site and proposed or existing structure does not, or will not when constructed, have a view of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.

8.02 K. 1. i. 5) In creating a view corridor, removal of vegetation shall be limited to the minimum necessary to preserve or enhance views. In no case shall the view corridor exceed the provisions found in Table 8.1.

i. The following standards apply:

   (1) View corridors are not allowed in the Natural and Urban Conservancy designations unless associated with an existing use.

   (2) Pruning of native trees shall not exceed 30% of a tree’s limbs.

   (3) “Topping” of native trees is prohibited.

   (4) Shrubs shall not be pruned to a height of less than six feet (6’).

   (5) Removal or pruning of vegetation waterward of the ordinary high water mark is prohibited.

   (6) Once a view corridor or other shoreline access corridor has been established, no additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs.

   (7) On any site on which a buffer has been reduced or modified, a view corridor will be allowed only when a critical areas report (see Chapter 11) can clearly establish that fragmentation of fish and wildlife habitat will not occur, and that there will be no net loss of shoreline ecological functions.

ii. The following additional requirements apply:

   (1) Plants that represent a hazard to safety, security, or shoreline ecological functions may be replaced with plants from the recommended list (Appendix E), provided a mitigation plan is submitted and approved. The mitigation plan must meet the standards of the local government with jurisdiction for a mitigation plan for Critical Fish and Wildlife Habitat.

   (2) Non-native or invasive species may be replaced with plants from the recommended list (Appendix E), provided a mitigation management plan is submitted and approved. The mitigation plan must meet the standards of Chapter 11 for a mitigation plan for Critical Fish and Wildlife Habitat.

   (3) All developments proposing a view corridor shall provide a mitigation plan that will need to be approved by the administrator. The mitigation plan must meet the standards of the Chapter 11 for Critical Fish and Wildlife Habitat.
8.02 K. 1. i. 6) Removal of trees to provide or enhance visual access shall be limited to the requirements found in this section and Table 8.1 as well as shoreline modification standards in Section 8.03.

8.02 K. 1. i. 7) Removal of diseased, damaged or stressed trees for the purpose of forest stewardship and conservation, property protection, or fire safety are subject to approval through a shoreline exemption.

8.02 L. Utilities

Utilities are transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants. On-site utility features serving a shoreline property, such as water, sewer or gas line connections to a residence, are "accessory utilities" and shall be considered a part of the primary use and are subject to the regulations contained in Section 8.02 A Accessory Utilities.

8.02 L. 1. Utilities – General Regulations

8.02 L. 1. a. Utility development shall be located within public rights-of-ways or existing infrastructure corridors whenever possible and be coordinated with government agencies to provide for compatible multiple uses.

8.02 L. 1. b. Utilities shall be located and designed to avoid damage or degradation to shoreline ecological function including wetlands, marshes, bogs and other swamps; important wildlife areas; and other unique and fragile areas.

8.02 L. 1. c. Underwater pipelines which transport material intrinsically harmful to aquatic life or potentially injurious to water quality, including sewer lines, shall be provided with automatic shut off valves at each end of the underwater segments.

8.02 L. 1. d. Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion and shoreline ecological function, including protection of water quality using Best Management Practices.

8.02 L. 1. e. Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix E), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.

8.02 L. 1. f. The placing of utility lines shall not obstruct or hinder physical or visual access to shoreline areas from public right-of-ways or public use areas. Utilities shall be placed landward of the primary structural setback requirements found in Table 8.1. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.
8.02 L. 1. g. Except where no other feasible alternative exists, utilities that require continued maintenance and therefore disrupt ecological processes (i.e. electrical transmission lines that require removal of undergrowth) shall not be placed in Vegetation Conservation areas (between OHWM and structure setback).

8.02 L. 2. Utilities - Designation Specific Regulations

8.02 L. 2. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity

8.02 L. 2. a. 1) Conditional use permit.

8.02 M. Recreation

8.02 M. 1. Recreation – General Regulations

8.02 M. 1. a. Shoreline recreational development is given priority and shall be primarily related to access to, enjoyment and use of the water and shorelines of the state.

8.02 M. 1. b. State-owned shorelines are particularly adapted to providing ecological study areas and other recreational uses for the public and shall be given special consideration when developing recreational uses in shoreline areas.

8.02 M. 1. c. The location, design and operation of shoreline recreational developments shall be primarily related to access, enjoyment and use of the water and shorelines of the state, consistent with the comprehensive plan and recreation plan of the local government with jurisdiction. All such uses shall not result in a net loss of shoreline function.

8.02 M. 1. d. Commercial recreational development shall comply with the provisions for commercial development Section 8.02 F Commercial.

8.02 M. 1. e. Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas shall be set back from the ordinary high water mark as specified in the Development Standards Table (Table 8.1), unless it can be shown that such facilities are water dependent and the planned location will not adversely affect shoreline functions. Such facilities may be linked to the shoreline by walkways.

8.02 M. 1. f. Shoreline recreational developments shall maintain, and, when feasible, enhance or restore desirable shoreline features including those that contribute to shoreline ecological functions and processes, scenic vistas, and aesthetic values. Removal of healthy native vegetation to enhance views shall be allowed only in compliance under Section 8.02 LK. 1. i. 1).

8.02 M. 1. g. Recreational uses shall be designed to complement their environment and surrounding land and water uses.

8.02 M. 1. h. No recreational buildings or structures shall be built over water, other than water-dependent and/or public access structures such as piers, docks, bridges, boardwalks, or viewing platforms.

8.02 M. 1. i. Each development proposal shall include a landscape plan that uses native, or native compatible self-sustaining vegetation. Removal of on-site native vegetation shall be limited to the minimum necessary for the permitted development or structures.
8.02 M. 1. j.  For recreational uses such as golf courses or parklands that require the use of fertilizers, pesticides, or other chemicals, the applicant shall specify the methods that will be used to ensure that the use complies with all provisions of this master program, including preventing the chemicals from entering adjacent water bodies or wetlands. Chemical-free buffer strips may be required at the discretion of the Administrator.

8.02 M. 1. k.  Recreational uses shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths, where those facilities will not result in loss of shoreline ecological functions.

8.02 M. 1. l.  Recreational uses shall include adequate provisions for water supply, sewage, garbage disposal, and fire protection.

8.02 M. 1. m.  Recreational development shall include adequate provisions, such as screening, buffer strips, fences, and signs, to buffer adjacent private property and natural areas and protect the value and enjoyment of those sites.

8.02 M. 1. n.  Trails and paths on steep slopes shall be located, designed, and maintained to protect bank stability.

8.02 M. 1. o.  Recreational uses shall be consistent with local comprehensive plan provisions and zoning regulations and required buffer and use setbacks in Section 8.01 A.16 and critical area protection regulations in contained herein.

8.02 M. 1. p.  Non-motorized recreation trails shall be allowed in the Zone 2 Buffer provided they are consistent with the local comprehensive plan and zoning regulations and the regulations contained herein. Non-motorized, non-impervious surface trails no greater than the minimum width required by state and/or federal statute for the type of facility (e.g. ADA requirements) to provide shoreline access may be allowed in the Zone 1 buffer through the submittal of a vegetation planting plan, mitigation management plan and compliance with mitigation sequencing standards found in Chapter 11.

8.02 M. 1. q.  No recreational uses are allowed that require fill.

8.02 M. 1.  Recreation - Designation Specific Requirements:

8.02 M. 2. a.  Aquatic

8.02 M. 2. a. 1)  Recreation development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation – conditional use permit.

8.02 M. 2. b.  Natural

8.02 M. 2. b. 1)  High and medium intensity recreation: Prohibited

8.02 M. 2. b. 2)  Low intensity recreation: CUP

8.02 M. 2. c.  Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity

8.02 M. 2. c. 1)  Substantial development permit.
8.02 N. Residential Development

8.02 N. 1. Residential Development – General Regulations

8.02 N. 1. a. No lot for residential use shall be created that would not accommodate a buildable area, based on the zoning district, comprehensive plan designation and critical areas regulations, that meets the minimum building setback and other standards for the shoreline designation in which the lot is located.

8.02 N. 1. b. No lots or plats will be approved that do not meet the minimum requirements of this SMP.

8.02 N. 1. c. Plats and subdivisions shall not rely upon 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.

8.02 N. 1. d. In its review of proposals for multi-lot and or multi-unit subdivisions and/or planned developments and other large developments, the city or town with jurisdiction shall require and use information about the impacts of the proposed development on shoreline ecological functions, including the cumulative impacts of exempt uses and activities within the development over time, and ensure there will be no net loss of shoreline function.

8.02 N. 1. e. All single family and multi-unit residential developments shall comply with the buffer, setback, bulk and dimensional standards set forth in Table 8.1 of this SMP, and shall be authorized only after approval of a site development plan, indicating the total disturbance footprint as required by this section. The disturbance footprint shall include:

8.02. N. 1. e. 1) all driveways and parking areas;
8.02. N. 1. e. 2) wildfire defensible space;
8.02. N. 1. e. 3) building footprint(s);
8.02. N. 1. e. 4) water access pathway location and width, not to exceed 4 feet;
8.02. N. 1. e. 5) location of storage and staging of materials and equipment during construction;
8.02. N. 1. e. 6) location of well and septic systems, if applicable.

8.02 N. 1. f. The construction of home(s) (inside the buffer or utilizing a buffer reduction) shall require preparation of a critical areas report and mitigation management plan as described in Section 11.01 B. 3.

8.02 N. 1. g. Location of the landward boundary of shoreline buffers as specified in Table 8.1 shall be approved by the Administrator or Washington Department of Ecology staff, and marked with permanent or temporary fencing sufficient to prevent any incidental incursion into, or disturbance of the buffer, by equipment, vehicles, building materials or other means.

8.02 N. 1. h. Buildings constructed in areas of 20 percent or greater slope, or slide-prone areas, shall conform to the requirements for geologically hazardous areas.
8.02 N. 1. i. Except for minimal pathways no greater than 4 feet in width to afford access to allowed docks, boat access or swimming areas or to remove hazard trees as set forth in Section 8.01 A. 16., native plant communities and species in buffers specified in Table 8.1 shall not be disturbed for any reason.

8.02 N. 1. j. New parcels/lots created through land division within jurisdiction of this SMP shall accomplish the following:

8.02 N. 1. j. 1) Plats and subdivisions as regulated elsewhere in this SMP must 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.

8.02 N. 1. j. 2) Plats and subdivisions as regulated elsewhere in this SMP must be designed, configured and developed in a manner that assures that no 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. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas (E.g., Slopes-greater than 20%, Channel Migration Zones- See Appendix G). New development on steep slopes or bluffs 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 analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

8.02 N. 1. j. 3) Plats and subdivisions as regulated elsewhere in this SMP must be designed and configured such that a buildable area is available on each lot in conformance with Comprehensive Plan as well as required shoreline and critical area buffer/setbacks, unless a specific, unbuildable lot is being created as a shoreline open space/conservancy lot and is so recorded.

8.02 N. 2. Residential Development - Designation Specific Regulations

8.02 N. 2. a. Aquatic and Natural

8.02 N. 2. a. 1) Residential development prohibited.

8.02 N. 2. a. 2) Subdivisions (both short and long) shall be subject to a conditional use permit and require the division to be processed as a planned development under local zoning and platting regulations.

8.02 N. 2. b. Urban Conservancy

8.02 N. 2. b. 1) Exempt single-family dwellings (SDU) are allowed. Non-exempt SDUs are prohibited. Multi-family Residential development requires Conditional Use Permit.

8.02 N. 2. b. 2) Subdivisions (both short and long) shall be subject to a conditional use permit and require the division to be processed as a planned development under local zoning and platting regulations.

8.02 N. 2. c. Shoreline Recreation, Shoreline Residential and High Intensity
8.02 N. 2. c. 1) Exempt\(^{17}\) for Single Family Residences built for the applicants own use or for the use by of his/her family

8.02 N. 2. c. 2) All other residential development requires a Substantial development permit.

8.02 N. 2. c. 3) Subdivisions are allowed.

8.02 O. Signage

8.02 O. 1. Signage – General Regulations

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment; and to temporary and interpretive signs. Highway, public information, and temporary signs are addressed in the Use Chart.

8.02 O. 1. a. All signs shall comply with applicable regulations of the City and any other applicable regulations (e.g., Scenic Vistas Act).

8.02 O. 1. b. Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Except as necessary for safe navigation, moorage, or public safety signs shall be located landward of the required building setback.

8.02 O. 1. c. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

8.02 O. 1. d. No signs shall be placed on trees or other natural features that will permanently damage or kill tree or feature.

8.02 O. 1. e. Off premises and non-appurtenant signs shall not be permitted, with the following exception: temporary signs and interpretive signs related to shoreline uses and ecological functions shall be allowed where they comply with the other policies of this SMP and, in the case of temporary signs, where adequate provisions are made for timely removal.

8.02 O. 1. f. No sign shall have a surface area larger than 36 square feet.

8.02 O. 1. g. Lighting of signs shall be prohibited unless the sign is necessary for safe navigation, moorage, or public safety. On-demand lighting shall be used whenever feasible.

8.02 O. 2. Signage - Designation Specific Regulations

8.02 O. 2. a. Aquatic and Natural

8.02 O. 2. a. 1) All outdoor advertising, signs and billboards shall be prohibited with the exception of public highway, safety, directional and informational signs.

8.02 O. 2. b. Shoreline Residential and Urban Conservancy

8.02 O. 2. b. 1) All outdoor advertising, signs and billboards shall be prohibited except:

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\(^{17}\) An exemption from the substantial development permit process is not an exemption from compliance with the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program, the regulation contained herein and the Shoreline Management Act.
i. Those signs necessary to protect the health, safety, and welfare of the public.

ii. Those necessary to give direction or identify and/or interpret a natural or cultural feature.

iii. Permitted signs shall not exceed 6 square feet in surface area.

iv. Permitted signs shall not exceed 6 feet in height.

v. Outdoor lighting of signs in the Urban Conservancy designation shall be prohibited.

8.02 O. 2. c. **Shoreline Recreation and High Intensity**

8.02 O. 2. c. 1) Outdoor advertising, signs and billboards are allowed subject to a substantial development permit and shall not exceed 36 sq. feet.

8.02 O. 2. c. 2) All signs (except for navigation aids), shall be located landward of the Zone 1 Vegetation Buffer.

**8.02 P. Transportation**

8.02 P. 1. **Transportation – General Regulations**

Transportation development serving non-water dependent uses should avoid the shoreline area where possible to avert damage to shoreline ecological function. Transportation development serving water oriented and water related uses shall be considered as part of that use and subject to the following provisions:

8.02 P. 1. a. Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

8.02 P. 1. a. 1) New roads or road expansions should not be built within shoreline jurisdiction, unless other options are unavailable and infeasible. Design of roadways through shoreline areas should occupy the least narrow horizontal profile possible to convey traffic in a safe manner measured from ditch to ditch or shoulder to shoulder (whichever is largest) to minimize the footprint of roadway.

8.02 P. 1. a. 2) Stormwater runoff from roadways should be contained using Best Management Practices.

8.02 P. 1. a. 3) De-icing, salting, and graveling of roads should be conducted in accordance with Best Management Practices.

8.02 P. 1. a. 4) Surfacing materials should not input or erode sediment into waterways.

8.02 P. 1. b. Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

8.02 P. 1. c. Circulation system planning shall include integrated corridors for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.
8.02 P. 1. d. Transportation and circulation systems shall be applied for at same time the primary development permit is being applied for complying with lot clearing and impervious surface standards found in this SMP Table 8.1.
TABLE 8.4 SHORELINE USE & ACTIVITY TABLE

All uses and activities must comply with all applicable provisions of this Shoreline Master Program (SMP), including the General, Shoreline Modification, Use-Specific, and Shoreline Designation-Specific regulations in this Chapter. Uses and activities not listed in the Shoreline Use and Activity Chart may be allowed (with a shoreline exemption, substantial development permit, or conditional use permit), subject to approval by the Administrator, if they comply with the standards in this section and with any regulations that apply to similar uses. All shoreline permits and exemptions are subject to conditions providing for maintenance, enhancement, and/or restoration of shoreline functions.

A = Allowed – requires exemption; or, Substantial Development or Conditional Use Permit, depending on fair market value and/or intensity of use or activity, or designation-specific requirements

SDP = Shoreline Substantial Development Permit required.
CUP = Shoreline Conditional Use Permit required.
X = Prohibited use
S = Same as in adjacent shoreline designation landward of the OHWM (applicable to areas designated Aquatic only)

(a) In the event that there is a conflict between the use(s) identified in Table 8.4 and the policies or regulations in Chapters 6, 7, or 8, the policies and regulations shall apply.

(b) Aquatic: Water-dependent use only, subject to the use and development regulations of the abutting upland shoreline area designation.

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18 - exempt uses and activities are defined by statute, see definitions in Chapter 2.
### Table 8.4 Use and Activity Chart\(^{(a)}\)

<table>
<thead>
<tr>
<th>Uses and Activities</th>
<th>Aquatic</th>
<th>Natural</th>
<th>Shoreline Recreation</th>
<th>Urban Conservancy</th>
<th>Shoreline Residential</th>
<th>High Intensity</th>
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19 Accessory utilities shall be prohibited except those required to serve a permitted water dependent use, which shall require a conditional use permit.

20 Requires minimum parcel size of 2 acres.
<table>
<thead>
<tr>
<th>Uses and Activities</th>
<th>Aquatic (b)</th>
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21 unless approved using Section 8.02 F. 1. c.  
22 If performed in compliance with WDFW Gold and Fish Pamphlet, all others CUP  
23 RCW 90.58.030(3)(e)(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence (inclusive of accessory utilities) for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements
City of Pateros SMP  
Chapter 8 Regulations for All Shoreline Uses, Activities and Designations  
May 2012

<table>
<thead>
<tr>
<th>Uses and Activities</th>
<th>Aquatic (b)</th>
<th>Natural</th>
<th>Shoreline Recreation</th>
<th>Urban Conservancy</th>
<th>Shoreline Residential</th>
<th>High Intensity</th>
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<tbody>
<tr>
<td>Non-exempt single family dwellings (e.g. seasonal or year round rentals)</td>
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<td>X</td>
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<tr>
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<td>X</td>
<td>SDP</td>
<td>CUP</td>
<td>SDP</td>
<td>SDP</td>
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<tr>
<td>Subdivision</td>
<td>S</td>
<td>X</td>
<td>A</td>
<td>CUP</td>
<td>A</td>
<td>A</td>
</tr>
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</table>

**Signage (Section 8.02 O)**

| Commercial Signs – on site advertising 24                                       | X           | X       | SDP                 | X                | SDP                   | SDP          |
| Commercial Signs - off-site advertising                                           | X           | X       | X                   | X                | X                     | X            |
| Public Highway, Safety, Directional and Informational Signs                       | A           | A       | A                   | A                | A                     | A            |

**Transportation (Section 8.02 P)**

| Roads and Railroads                                                              | S           | CUP     | SDP                 | SDP              | SDP                   | SDP          |

**Shoreline Modifications (Section 8.03)**

| Dikes/leves (8.03 E)                                                            | S           | CUP     | CUP                 | CUP              | CUP                   | CUP          |
| Breakwaters, groins and jetties (8.03 F)                                        | S           | CUP     | CUP                 | CUP              | CUP                   | CUP          |
| Dredging and Material Disposal 25 (8.03 C)                                      | S           | CUP     | CUP                 | CUP              | CUP                   | CUP          |
| Filling 26 (8.03 D)                                                             | S           | CUP     | SDP                 | SDP              | SDP                   | SDP          |
| Clearing and Grading 27 (8.03 B)                                                | X           | X       | CUP                 | CUP              | CUP                   | CUP          |
| Bulkheads and revetments (8.03 F)                                               | S           | X       | CUP                 | CUP              | CUP                   | CUP          |
| Shoreline Restoration and Enhancement 28 (8.03 A)                               | S           | A       | A                   | A                | A                     | A            |

**Shoreline Stabilization (8.03E)**

| Hardening, Structural approaches                                                 | CUP         | CUP     | CUP                 | CUP              | CUP                   | CUP          |
| Bioengineering approaches                                                        | S           | SDP     | SDP                 | SDP              | SDP                   | SDP          |
| Shoreline Restoration and Enhancement 20 (8.03 A)                                | S           | SDP     | SDP                 | SDP              | SDP                   | SDP          |

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24 SDP requirement is only applicable to signs over the dollar threshold for an exemption.
25 All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.
26 All fill is limited to the minimum amount required for existing permitted or proposed allowed uses.
27 Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another property or public right of way.
28 Restoration and enhancement projects may be exempted if part of an approved recovery plan.
8.03 Shoreline Modification Activities

Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, dredging (shoreline modification) to allow for a marina (boating facility use).

8.03 A. General (applicable in all shoreline designations)

8.03 A. 1. All shoreline modification activities not in support of an existing conforming use or other allowed use are prohibited, unless it can be demonstrated, that such activities are necessary to protect primary structures and in the public interest or are for the maintenance, restoration or enhancement of shoreline ecological functions.

8.03 A. 2. Shoreline modifications shall result in no net loss of shoreline ecological functions. The number and extent of shoreline modifications shall be limited to the minimum required.

8.03 A. 3. Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions shall be allowed. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. For example, planting vegetation that will stabilize the shoreline is preferred rather than a concrete bulkhead.

8.03 A. 4. Ecological impacts of shoreline modifications shall be mitigated in conformance with the regulations contained herein.

8.03 A. 5. All shoreline modification activities must conform to Section 8.01 General Regulations and the provisions for the appropriate shoreline designation.

8.03 B. Clearing and Grading

8.03 B. 1. Clearing and grading shall be addressed and identified in the permit or exemption application for the shoreline use or activity with which it is associated.

8.03 B. 2. Clearing or grading within required Zone 1 Vegetation and Zone 2 Use buffers and/or wetland buffers shall comply with the requirements of Section 8.01 A. and Tables 8.1 and 8.5.

8.03 B. 3. No clearing or grading shall be initiated before the permit, exemption or variance approval is issued.

8.03 B. 4. Existing native riparian vegetation shall be retained whenever possible.

8.03 B. 5. Grading permits:

8.03 B. 5. a. A grading permit issued by the local government with jurisdiction shall be required in the following situations:

8.03 B. 5. a. 1) Where more than 50 cubic yards of material will be moved within a shoreline area for any reason; or

8.03 B. 5. a. 2) Any clearing or grading within building setbacks or buffers.

8.03 B. 5. a. 3) Where clearing and grading will modify a percentage of a site’s shoreline area landward of the building setback that is greater than the percentage or square footage (whichever is greater) specified in Table 8.5.
8.03 B. 5. b. An increase of up to 25% cleared and graded area may be permitted through the submittal of a critical areas report and mitigation plan that demonstrates the grading and clearing will not impact the shoreline ecological function or value.

Table 8.5 Shoreline Designation Specific Clearing and Grading Standards

<table>
<thead>
<tr>
<th>Shoreline Designation</th>
<th>Percent of site located within shoreline jurisdiction that may be cleared and/or graded</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Intensity</td>
<td>50%</td>
</tr>
<tr>
<td>Shoreline Residential</td>
<td>50%</td>
</tr>
<tr>
<td>Urban Conservancy</td>
<td>15%</td>
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<td>Shoreline Recreation</td>
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<tr>
<td>Natural</td>
<td>5%</td>
</tr>
<tr>
<td>Aquatic</td>
<td>N/A</td>
</tr>
</tbody>
</table>

8.03 B. 6. In its review of clearing and grading proposals, the City shall require and utilize a clearing and grading plan that addresses species removal, replanting, irrigation, storm water control (including runoff from structures and pervious surfaces), erosion and sedimentation control, and plans for protecting shoreline resources and that results in no net loss of ecological function.

8.03 B. 7. Grading of a development site shall not alter natural drainage patterns in manner that would increase the rate or quantity of surface run-off. Such grading activities shall require a grading plan compliant with storm water best management practices.

8.03 B. 8. Immediately upon completion of the construction or maintenance activity, remaining cleared areas shall be restored to a naturalistic condition using compatible, self-sustaining vegetation in accordance with Section 8.03 G Vegetation Conservation.

8.03 B. 9. Clearing by hand-held equipment of invasive non-native vegetation on the State Noxious Weed List is permitted in shoreline areas provided the disturbed area is promptly replanted with vegetation from the recommended list (Appendix E) or if the site will fully re-vegetate with plants that will support healthy shoreline function on its own within three growing seasons.

8.03 B. 10. All shoreline development and activity shall use applicable BMPs from Eastern Washington Stormwater Management to minimize increases in surface water runoff that may result from clearing and grading activity.

8.03 B. 11. Soil stabilization associated with clearing and grading shall, whenever feasible, use bioengineering or other soft stabilization techniques.

29 - The standards in the table provide for the maximum percentage that may be cleared outside of Vegetation and Use Buffers.

30 - The percentages represent the maximum allowable with an increase of up to 25% permitted subject to a critical areas report and mitigation management plan that considers present ecological function, cumulative impacts of the development and restoration opportunities, both on and off-site, DOES NOT INCLUDE CLEARING WITHIN THE ZONE 1 or ZONE 2 BUFFERS.
8.03 B. 12. Any significant placement of materials from off of the site, or substantial creation or raising of dry upland, shall be considered filling and shall comply with the fill provisions of Section 8.03 D Fill.

8.03 B. 13. Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another developed property or developed public right of way.

8.03 C. Dredging and Dredge Material Disposal

8.03 C. 1. The City shall require and use the following information in its review of shoreline dredging and dredge material disposal proposals:

8.03 C. 1. a. Dredging volumes, methods, schedules, frequency, hours of operation, and procedures.

8.03 C. 1. b. Analysis of material to be dredged in compliance with Model Toxics Control Act.

8.03 C. 1. c. Method of disposal, including the location, size, capacity, and physical characteristics of the disposal site, transportation methods and routes, hours of operation, and schedule.

8.03 C. 1. d. Stability of bedlands adjacent to the proposed dredging site.

8.03 C. 1. e. Stability of geologically hazardous areas in the vicinity of the proposed dredging site.

8.03 C. 1. f. Assessment of water quality impacts.

8.03 C. 1. g. Habitat assessment meeting the standards prescribed for Fish and Wildlife Habitat Conservation Areas in Critical Areas regulations contained in this chapter including migratory, seasonal, spawning, migration, wetland and riparian use areas.

8.03 C. 2. In evaluating permit applications for any dredging project, the Administrator and/or appropriate hearing or review body shall consider the need for and adverse effects of the initial dredging, subsequent maintenance dredging, and dredge disposal. Dredging and dredge material disposal shall only be permitted where it is demonstrated that the proposed actions will not:

8.03 C. 2. a. Result in significant and/or on-going damage to water quality, fish, or other biological elements;

8.03 C. 2. b. Adversely alter natural drainage and circulation patterns, or significantly reduce flood storage capacities;

8.03 C. 2. c. Affect slope stability; or

8.03 C. 2. d. Otherwise damage shoreline or aquatic resources.

8.03 C. 3. Proposals for dredging and dredge disposal shall prepare a mitigation management plan that includes measures to protect fish and wildlife habitat and other critical areas in compliance with the regulations herein that includes measures to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials, or toxic substances; dissolved oxygen depletion; or disruption of food chains.
8.03 C. 4. Dredging and dredge material disposal shall not occur in wetlands except as authorized by Conditional Use Permit in compliance with the regulations herein with conditions providing that valuable functions of the wetland, such as wildlife habitat and natural drainage, will not be diminished.

8.03 C. 5. Dredging waterward of the ordinary high water mark shall be allowed by conditional use permit only when:

8.03 C. 5. a. It has been proven that the development cannot be sited elsewhere and has been designed to avoid and minimize new and maintenance dredging (WAC 173-26-231(3)(f))

8.03 C. 5. b. For navigation or existing navigational access;

8.03 C. 5. c. In conjunction with a conforming allowed water-dependent use of water bodies or adjacent shorelands;

8.03 C. 5. d. As part of a habitat management plan that has been approved by the City, and has been accepted by the Washington Department of Fish and Wildlife or other agency with jurisdiction;

8.03 C. 5. e. To improve water quality;

8.03 C. 5. f. For mining, mineral extraction, mineral prospecting and placer mining as provided in Section 8.03 H Mining;

8.03 C. 5. g. In conjunction with a bridge or a navigational channel, basin, or structure for which there is a documented public need and where other feasible sites or routes do not exist; or

8.03 C. 5. h. To improve water flow and/or manage flooding only when consistent with an approved flood and/or stormwater comprehensive management plan in conjunction with a habitat mitigation management plan.

8.03 C. 6. Any impacts of dredging that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

8.03 C. 7. Dredging shall use techniques that cause the minimum dispersal and broadcast of bottom material.

8.03 C. 8. Dredging for the primary purpose of obtaining material for fill is prohibited, except when the material is necessary for the restoration of ecological functions. The fill must be associated with a significant habitat enhancement project that is listed as part of a regional or watershed-scale plan, MTCA or CERCLA habitat restoration project. When allowed, the site where the fill is to be placed must be located waterward of the OHWM (WAC 173-26-231(3)(f)) and conducted in accordance with the dredged material management program of the department of natural resources.

8.03 C. 9. Dredging to construct canals or basins for boat moorage or launching, water ski landings, swimming holes, and similar uses shall only be permitted as a conditional use and shall include a habitat enhancement/mitigation plan.

8.03 C. 10. Disposal of dredged materials shall be accomplished at approved contained upland sites in compliance with all Federal, State and local regulations.

8.03 C. 11. Depositing dredge materials in water areas shall be allowed only by Conditional Use Permit, for one or more of the following reasons:
8.03 C. 11. a. For wildlife habitat improvement.
8.03 C. 11. b. To correct problems of material distribution adversely affecting fish resources.
8.03 C. 11. c. For permitted enhancement of beaches that provide public access, where it has been conclusively demonstrated that no net loss of shoreline ecological functions will result or for public safety.

8.03 C. 12. Use of dredged material for beach enhancement shall be conducted so that:

8.03 C. 12. a. Erosion from the disposal site is minimized. Erosion of the dredged material shall not smother emergent vegetation or other shallow productive areas.
8.03 C. 12. b. To the extent possible, the volume of dredged material and frequency of disposal maintain a stable beach profile. Dredged material shall be graded as a uniform slope and contoured to reduce cove and peninsula formation and to preclude stranding of juvenile fish.

8.03 C. 13. Land disposal sites shall be replanted as soon as feasible, and in no case later than the next planting season, in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Vegetation from the recommended list (Appendix E) or other species authorized by the City shall be used. Native plants are preferred. Plants that may compromise shoreline values are prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The agency or developer responsible for the land disposal shall also be responsible for maintaining the vegetation as established in the approved mitigation management plan.

8.03 C. 14. Proposals for disposal in the channel migration zone is discouraged and only allowed by Conditional Use Permit (WAC 17-26-231(3)(f). Disposal in other shoreline areas must provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning that benefits shoreline resources.

8.03 C. 15. Designation specific regulations.

8.03 C. 15. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity

8.03 C. 15. a. 1) All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.

8.03 D. Fill

8.03 D. 1. The City shall require and use the following information in its review of fill proposals and the applicant shall submit the following on their permit or exemption application:

8.03 D. 1. a. Proposed use of the fill area.
8.03 D. 1. b. Physical characteristics, such as chemical and biological composition if appropriate, depending on where it is to be placed or will be subject to inundation.
8.03 D. 1. c. Source of the fill material.
8.03 D. 1. d. Method of placement and compaction.
8.03 D. 1. e. Location of fill relative to existing drainage patterns and wetlands.
8.03 D. 1. f. Location of the fill perimeter relative to the ordinary high water mark.
8.03 D. 1. g. Perimeter erosion control or stabilization measures.
8.03 D. 1. h. Type of surfacing and runoff control devices.

8.03 D. 2. Fill waterward of the ordinary high water mark or in wetlands shall only be permitted as a conditional use in all shoreline designations, and only when necessary for one of the following purposes:

8.03 D. 2. a. water-dependent use,
8.03 D. 2. b. public access,
8.03 D. 2. c. cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,
8.03 D. 2. d. disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources,
8.03 D. 2. e. 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, mitigation action, environmental restoration, beach nourishment or enhancement project.
8.03 D. 2. f. Fill in wetlands must comply with the wetlands provisions of this SMP and shall result in no net loss of wetland area in functions including lost time when the wetland does not perform the function and is subject to mitigation in this SMP.

8.03 D. 3. Pier or pile support shall be utilized whenever feasible in preference to filling. Fills for approved road, bridge or navigational structure development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.

8.03 D. 4. Fills are prohibited in floodplains except where it can be clearly demonstrated that the geo-hydraulic characteristics and floodplain storage capacity will not be altered to cause increased flood hazard or other damage to life or property in excess of accepted standards provided by state and/or federal agencies.

8.03 D. 5. Fills are prohibited in floodways, and channel migration zone areas (See CMZ Map Appendix G) except when approved by conditional use permit and where required in conjunction with a proposed water-dependent or other use, as specified in Section 8.03 D 2 above, and where permitted by the local jurisdiction’s Critical Areas regulations and any other relevant regulations or plan (e.g., flood hazard prevention regulations or Comprehensive Flood Hazard Management Plan).

8.03 D. 6. Fills shall be permitted only when it is demonstrated that the proposed action will not:

8.03 D. 6. a. Result in significant damage to water quality or fish and wildlife habitat;
8.03 D. 6. b. Adversely affect natural drainage and circulation patterns or
significantly reduce flood water capacities;

8.03 D. 6. c. Affect slope stability; or

8.03 D. 6. d. Otherwise damage shoreline or aquatic resources.

8.03 D. 7. Placing fill in water bodies or wetlands to create usable land for shoreline development is prohibited and shall not be used to calculate parcel size proposed for subdivision.

8.03 D. 8. Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetated buffer areas, or other methods, and shall be adequately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the fill and shall be maintained until self-sustaining. The design shall incorporate natural-appearing and self-sustaining control methods unless they can be demonstrated to be infeasible due to existing environmental conditions such as currents and weather.

8.03 D. 9. Fill materials shall be sand, gravel, rock, soil, or similar materials. Use of polluted dredge spoils, solid waste, and sanitary landfill materials is prohibited.

8.03 D. 10. Fills shall be designed to allow surface water penetration into ground water supplies where such conditions existed prior to fill. Fills shall not be permitted in aquifer recharge areas if they would have the effect of preventing percolation of the water.

8.03 D. 11. The timing of fill construction shall be regulated to result in no net loss of shoreline ecological functions, including water quality and aquatic life.

8.03 D. 12. Fill on dry land shall not result in substantial changes to patterns of surface water drainage from the project site and onto adjacent properties; within shoreline areas; into aquatic areas; or onto steep slopes or other erosion hazard areas.

8.03 D. 13. Designation specific regulations.

8.03 D. 13. a. Aquatic, Natural, Shoreline Recreation, Urban Conservancy, Shoreline Residential and High Intensity

8.03 D. 13. a. 1) All fill is prohibited except the minimum amount required for existing permitted or proposed allowed uses.

8.03 D. 13. a. 2) All permitted fill shall require a conditional use permit.

8.03 E. Shoreline Stabilization (See WAC 173-26-231(3)(a)(iii))

8.03 E. 1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivisions shall be reviewed to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas. New development on steep slopes or bluffs shall be setback sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
8.03 E. 2. New structural stabilization measures shall not be allowed except to protect an existing primary structure when all of the conditions below apply:

8.03 E. 2. a. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

8.03 E. 2. b. The erosion control structure will not result in a net loss of shoreline ecological functions.

8.03 E. 3. New shoreline stabilization for water-dependent development shall not be allowed except when all of the conditions below apply:

8.03 E. 3. a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

8.03 E. 3. b. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

8.03 E. 3. c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

8.03 E. 3. d. The erosion control structure will not result in a net loss of shoreline ecological functions.

8.03 E. 4. New structural stabilization measures shall not be allowed for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW except when all of the conditions below apply:

8.03 E. 4. a. Nonstructural measures, planting vegetation or installing on-site drainage improvements are not feasible or not sufficient;

8.03 E. 4. b. The erosion control structure will not result in a net loss of shoreline ecological functions.

8.03 E. 5. Use of shoreline stabilization measures to create new land is prohibited including creation of new lots that will require shoreline stabilization in order to allow development.

8.03 E. 6. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.

8.02 E. 6. a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

8.02 E. 6. b. Replacement walls or bulkheads shall not encroach waterward of the

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31 Except for approved habitat restoration or enhancement projects
32 Said replacement structure shall be engineered and designed to address the issues of the failure of the existing structure
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.

**8.02 E. 6. c.** Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

**8.02 E. 6. d.** For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

**8.03 E. 7.** A geotechnical report prepared to address the need to prevent potential damage to a primary structure shall address the City’s standards for a critical areas report (See Chapter 11) for geologically hazardous areas as well as the issues below.

**8.03 E. 8.** Geotechnical reports 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.

**8.03 E. 9.** Hard armoring solutions shall not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three years as a result of shoreline erosion in the absence of 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. 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, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

**8.03 E. 10.** Shoreline stabilization shall not be allowed for new uses if it would cause a net loss of shoreline ecological functions on the site, or within the watershed; or if it would cause significant ecological impacts to adjacent properties or shoreline areas. Those impacts include accelerated erosion of adjacent properties caused by the stabilization measures.

**8.03 E. 11.** New uses, including exempt uses, in areas above unstable slopes and moderately unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

**8.03 E. 12.** Where structural shoreline stabilization measures are shown to be necessary, the extent of the stabilization measures shall be limited to the minimum necessary.

**8.03 E. 13.** Stabilization measures shall be designed to minimize harm to and as much as possible restore ecological functions. Lost functions shall be mitigated to ensure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated to be insufficient to protect the primary structure or structures.

**8.03 E. 14.** Where stabilization is necessary to alleviate erosion caused by removal of vegetation, vegetative stabilization measures shall be the only stabilization measures
allowed, except where a report by a qualified professional is submitted. See Section 8.03 G Vegetation Conservation.

8.03 E. 15. Where feasible, ecological restoration and public access improvements shall be incorporated into public projects. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

8.03 E. 16. All applicable federal, state, and local permits shall be obtained and complied with in the construction of shoreline stabilization measures. All permits must be issued before any stabilization work takes place.

8.03 E. 18. Designation specific regulations.

8.03 E. 18. a. Natural

8.03 E. 18. a. 1) Dikes/levees, breakwaters, groins and jetties are prohibited.

8.03 E. 18. b. Aquatic, Shoreline Recreation, Shoreline Residential and High Intensity

8.03 E. 18. b. 1) Dikes/levees, breakwaters, groins and jetties shall require a conditional use permit.

8.03 E. 18. c. Aquatic, Natural, Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity

8.03 E. 18. c. 1) Bioengineering approaches shall require a substantial development permit.

8.03 F. Bulkheads

8.03 F. 1. All bulkheads are also subject to the provisions of Sections 8.01 A and 8.03 A, 8.03 E and 8.03 G.

8.03 F. 2. New or enlarged bulkheads for an existing principal structure or use, including residences and accessory structures, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared according to the local jurisdiction’s standards for a critical areas report for geologically hazardous areas, that the principal structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage in a manner that does not degrade shoreline function before considering structural shoreline stabilization. The project design and analysis shall also evaluate vegetation enhancement as a means of reducing undesirable erosion. The geotechnical analysis shall demonstrate that the stabilization measure chosen is the least intrusive means that will be sufficient to achieve stabilization. The geotechnical analysis shall evaluate impacts that could pose stabilization problems to neighboring properties.

8.03 F. 3. An existing bulkhead may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. In this case, demonstration of need does not necessarily require a geotechnical report; need must, however, be demonstrated using documentable information sources. The replacement structure shall be designed, located, sized, and
constructed to ensure no net loss of ecological functions. Replacement bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to the date of adoption of this SMP, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. The Administrator may permit vegetative stabilization that restores ecological functions waterward of the ordinary high water mark.

**8.03 F. 4.** A bulkhead-type structure used to stabilize a dock may be permitted, but the size shall be limited to the minimum necessary for the dock. The stabilization structure shall not exceed 1’ wider than the gangplank or pier structure on each side nor shall it exceed 6’ landward in total distance from the OWHM into the shoreline area.

**8.03 F. 5.** Designation specific regulations

**8.03 F. 5. a. Aquatic, Natural**

**8.03 F. 5. a. 1)** Bulkheads shall be prohibited.

**8.03 F. 5. b. Urban Conservancy, Shoreline Recreation, Shoreline Residential and High Intensity**

**8.03 F. 5. b. 1)** Bulkheads shall require a conditional use permit.