ORDINANCE NO. 16-3

AN ORDINANCE OF THE CITY OF PULLMAN, WASHINGTON, RELATING TO ENVIRONMENT, ADDING A NEW CHAPTER 16.55, SHORELINE MASTER PROGRAM, TO THE PULLMAN CITY CODE AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the Washington State Shoreline Management Act (Act) was passed by the state Legislature in 1971, and affirmed by state voters through a public referendum in 1972; and,

WHEREAS, the legislative findings of the Act declare that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest"; and,

WHEREAS, the Act requires that each local government with applicable shorelines adopt a Shoreline Master Program to fulfill the provisions of the law; and,

WHEREAS, a portion of the shorelines along the South Fork of the Palouse River within the City of Pullman fall under the jurisdiction of the Act; and,

WHEREAS, in accordance with the provisions of the Act, the City of Pullman adopted a Shoreline Master Program in 1974 by means of Ordinance No. B-163; and,

WHEREAS, the state Legislature adopted revisions to the Act in 2003 which state that all applicable cities within Whitman County are currently required to amend their Shoreline Master Programs; and,

WHEREAS, a draft Shoreline Master Program amendment was produced for the City of Pullman in accordance with the provisions of the Act in January of 2015; and,

WHEREAS, the Planning Commission held a duly noticed public hearing on July 22, 2015 to solicit public comment regarding the draft Shoreline Master Program amendment and to review the contents of said draft Shoreline Master Program amendment; and,

WHEREAS, the Planning Commission, at the conclusion of its public hearing on July 22, 2015, adopted Resolution No. PC-2015-10, thereby recommending conditional approval to the City Council of the draft Shoreline Master Program amendment; and,

WHEREAS, the City Council conducted a public meeting on August 18, 2015 to reflect upon the contents of the draft Shoreline Master Program amendment as recommended by the Planning Commission; and,

WHEREAS, the City Council has thoroughly reviewed the draft Shoreline Master Program amendment and finds that adoption of said Shoreline Master Program amendment would be in the public interest; now, therefore,

The City Council of the City of Pullman does ordain as follows:

Section 1: There is hereby added a new chapter 16.55 to the Pullman City Code.

Section 2: Under Part I. INTRODUCTION, there is hereby added a new section 16.55.010 to the Pullman City Code that reads as follows:

16.55.010 Title. This chapter shall be known and may be cited as the City of Pullman Shoreline Master Program (the "Program," "Master Program," or "SMP").

Section 3: There is hereby added a new section 16.55.020 to the Pullman City Code that reads as follows:

16.55.020 Adoption Authority. This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

Section 4: There is hereby added a new section 16.55.030 to the Pullman City Code that reads as follows:

16.55.030 Purpose and Intent. Washington's Shoreline Management Act (RCW 90.58) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by

encouraging land uses that enhance and conserve shoreline functions and values. The SMA has three broad policies:

(1) Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."

(2) Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

(3) Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the waters of the state and their aquatic life...."

The intent of the City of Pullman Shoreline Master Program is to ensure comprehensive planning for the City's shorelines and to ensure the adoption and implementation of use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies adopted by the State.

Section 5: There is hereby added a new section 16.55.040 to the Pullman City Code that reads as follows:

16.55.040 Purpose and Relationship to State Planning and Shoreline Laws. Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974. The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. After the City's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure

compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the City and approved by Ecology.

Section 6: There is hereby added a new section 16.55.050 to the Pullman City Code that reads as follows:

16.55.050 Applicability.

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

(2) Except as described in Subsection 16.55.050(3), all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 16.55.020 (Adoption Authority).

(3) This SMP does not apply to the following activities:

(a) Consistent with Section 16.55.100 (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.

(b) Interior building improvements that do not change the use or occupancy;

(c) Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;

(d) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and

(e) As of the effective date of the SMP, legal pre-existing residential uses and structures where no change or new activity is proposed.

(4) Activities that are exempt from the permit system in Subsection 16.55.160(2) shall comply with this SMP

whether or not a permit or other form of authorization is required.

(5) The shoreline permit procedures, policies and regulations established in this SMP shall apply City-wide to all non-federal uses, activities, and development.

(6) This SMP applies to lands subject to non-federal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

(7) This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 are complied with. The City has predesignated shorelines in the urban growth area. Until annexed, development in these areas shall be regulated by the Whitman County Shoreline Master Program. Once annexed, those properties shall be regulated by the City of Pullman Shoreline Master Program.

(8) A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

Section 7: There is hereby added a new section 16.55.060 to the Pullman City Code that reads as follows:

16.55.060 Liberal Construction. As provided for in RCW 90.58.900 (Liberal Construction), the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

Section 8: There is hereby added a new section 16.55.070 to the Pullman City Code that reads as follows:

16.55.070 Interpretation. The Act and this Program adopted pursuant thereto comprise the basic State and City law regulating use of shorelines in the City of Pullman. In the event provisions of this Program conflict with other applicable City policies or regulations, the more restrictive shall prevail.

Section 9: There is hereby added a new section 16.55.080 to the Pullman City Code that reads as follows:

16.55.080 Effective Date. The SMP is hereby adopted on the 29th day of March, 2016. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

Section 10: There is hereby added a new section 16.55.090 to the Pullman City Code that reads as follows:

16.55.090 Document Organization. The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other City planning documents such as the City of Pullman Comprehensive Plan and the Pullman City Code. The organization of the SMP and the purpose for each part is explained below.

(1) Part I. Introduction: provides background, purpose and legal authority.

(2) Part II. Definitions: provides definitions for terms used throughout the SMP.

(3) Part III. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.

(4) Part IV. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.

(5) Part V. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and

management policies for specific areas within the shoreline jurisdiction.

(6) Part VI. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.

(7) Part VII. Shoreline Critical Areas Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.

(8) Part VIII. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.

(9) Part IX. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.

Section 11: Under Part II. DEFINITIONS, there is hereby added a new section 16.55.100 to the Pullman City Code that reads as follows:

16.55.100 Definitions. Words not defined in this Chapter shall be as defined in the following codes under this order of precedence: the Pullman City Code, the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). Words not found in any of these codes shall be as defined in the Webster's Third New International Dictionary, latest edition.

(1) Abandon. Abandon means to terminate the use of a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through non-action.

(2) Accessory dwelling unit. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

(3) Accessory use or structure. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

(4) Act. The Washington State Shoreline Management Act, chapter 90.58 RCW.

(5) Activity. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

(6) Adjacent. To be nearby and not necessarily abutting.

(7) Administrator or SMP Administrator. The City designee charged with the responsibility of administering the City of Pullman SMP.

(8) Advance mitigation. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report or other applicable information and prior to site development.

(9) Agricultural activity. Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

(10) Agricultural equipment and agricultural facilities. Includes, but is not limited to:

(a) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish

rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(b) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(c) Farm residences and associated equipment, lands, and facilities; and

(d) Roadside stands and on-farm markets for marketing fruit or vegetables.

(11) Agricultural land. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

(13) Agricultural related industries. Agricultural related industries include:

(a) Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially

unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.

(b) Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.

(c) Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

(14) Agricultural stands. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

(15) Alkali wetlands. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

(16) Alteration. Any human activity that results or is likely to result in an impact upon the existing condition of a shoreline is an alteration. Alterations include, but are not limited to grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except stormwater, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity that results or is likely to result in an impact to existent vegetation, hydrology, fish or wildlife, or fish or wildlife habitat. Alterations do not include walking, fishing, or any other passive recreation or other similar activities.

(17) Amendment. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

(18) Applicant. A person who files an application for a development permit under this Chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

(19) Approval. An official action by a local government legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this Chapter; or an official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

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

(21) Aquifer. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

(22) Aquifer, confined. An aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

(23) Aquifer recharge area. An area that, due to the presence of certain soils, geology, and surface water, acts to recharge ground water by percolation.

(24) Aquifer, sole source. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of

the drinking water for an area without a sufficient replacement available.

(25) Aquifer susceptibility. The ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

(26) Aquifer, unconfined. An aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer."

(27) Associated wetlands. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

(28) Base flood or 100-year flood. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the City of Pullman; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City of Pullman.

(29) Basement. Any area of the building having its floor below ground level on all sides.

(30) Best management practices or BMP. Conservation practices or systems of practices and management measures that:

(a) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment;

(b) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

(c) Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and

(d) Provide standards for proper use of chemical herbicides within critical areas.

(31) Board of Adjustment. The City of Pullman Board of Adjustment.

(32) Boating facilities. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

(33) Bog. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

(34) Breakwater. A fixed or floating off-shore structure that protects the shore from wave action or currents.

(35) Buffer. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

(a) Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

(b) Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;

(c) Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

(36) Bulkhead. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

(37) Channel migration zone or CMZ. The area along a river within which the channel)s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

(38) City Critical Area Maps. Maps maintained by the Pullman planning department that depict certified and suspected aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

(39) Clearing. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

(40) Commercial use. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

(41) Compensation project. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

(42) Compensatory mitigation. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

(a) Restoration - Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;

(b) Creation - Actions performed to intentionally establish a wetland at a site where it did not formerly exist;

(c) Enhancement - Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and

(d) Preservation - Actions taken to ensure the permanent protection of existing, high-quality wetlands.

(43) Comprehensive master program update. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

(44) Comprehensive Plan. The officially adopted document and any amendments or supplements thereto adopted by the City of Pullman, which sets forth policies and standards for determining the best use of land and other resources of the City.

(45) Conditional use. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

(46) Conservation easement. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a

property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

(47) Creation. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

(48) Critical aquifer recharge area. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

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

(50) Cumulative impact. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

(51) Dairy. A farm operation producing milk products.

(52) Developable Area. A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this Chapter.

(53) Development. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any

project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

(a) Interior building improvements that do not change the use or occupancy;

(b) Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;

(c) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and

(d) Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.

(54) Development permit. Any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.

(55) Development regulation. Any controls placed on development or land use activities by the City of Pullman, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

(56) Dock. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

(57) Dredging. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are

accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this SMP or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 16.55.530 (Dredging and Dredge Material Disposal), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

(58) Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

(59) Ecologically intact. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and

contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

(60) Ecosystem-wide processes. The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

(61) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

(62) Erosion. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

(63) Erosion hazard areas. At least those areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard.

(64) Excavation. The mechanical removal of earth materials.

(65) Exempt. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with

applicable provisions of the SMA and this Master Program.

(66) Exotic. Any species of plants or animals that are foreign to the planning area.

(67) Fair market value. The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

(68) Feasible. An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

(a) The action provides a reasonable likelihood of achieving its intended purpose; and

(b) The action does not physically preclude achieving the project's primary intended legal action.

In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the actions' relative public costs and public benefits, considered in the short- and long-term time frames.

(69) Federal Emergency Management Agency (FEMA). The agency that oversees the administration of the National Flood Insurance Program.

(70) Feedlot. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include

normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

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

(72) Fish and wildlife. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

(73) Fish and wildlife habitat conservation areas. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Section 16.55.400(1).

(74) Fish habitat. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

(75) Float. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

(76) Flood, Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

(77) Flood control. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by

abnormally high direct precipitation or stream overflow.

(78) Flood fringe. Land area that is outside the floodway of a stream, but is subject to periodic inundation due to flooding, associated with a regulatory flood.

(79) Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(80) Flood Insurance Study. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

(81) Floodplain. Synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the SMA.

(82) Floodway. The area, as identified in a master program, that either:

(a) Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or

(b) Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

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

(84) Frequently flooded area. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

(85) Functions and values. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive

flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

(86) Geologically hazardous areas. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

(88) Grade. The vertical location of the ground surface.

(a) Natural grade is the grade as it exists or may have existed in its original undisturbed condition.

(b) Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.

(c) Rough grade is a stage where grade conforms approximately to an approved plan.

(d) Finish grade is the final grade of the site which conforms to an approved plan.

(e) Average grade level is the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the OHWM. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

(89) Grading. Excavation or fill or any combination thereof, including but not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

(90) Groin. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also "Weir."

(91) Groundwater. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

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

(93) Habitat. The place or type of site where a plant or animal naturally or normally lives and grows.

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

(94) Hazard areas. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

(95) Hazardous substances. Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

(96) Height. Measured from average grade level to the highest point of a structure as described in Title 17 of the Pullman City Code: Provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

(97) High intensity land use. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multi-family residential, some agricultural practices, and commercial and industrial land uses.

(98) Houseboat or floating home. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

(99) Hydric soil. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

(100) Hyporheic zone. The saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients, and maintains water quality.

(101) Impervious surface. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

(102) Industrial. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

(103) Infiltration. The downward entry of water into the immediate surface of soil.

(104) Injection Well.

(a) Class I: A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter mile (1,320 feet) of the well bore, an underground source of drinking water.

(b) Class II: A well used to inject fluids:

(i) Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

(ii) For enhanced recovery of oil or natural gas; or

(iii) For storage of hydrocarbons that are liquid at standard temperature and pressure.

(c) Class III: A well used for extraction of minerals, including but not limited to the injection of fluids for:

(i) In-situ production of uranium or other metals that have not been conventionally mined;

(ii) Mining of sulfur by Frasch process; or

(iii) Solution mining of salts or potash.

(d) Class IV: A well used to inject dangerous or radioactive waste fluids.

(e) Class V: All injection wells not included in Classes I, II, III, or IV.

(105) In-kind compensation. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

(106) In-stream structures. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

(107) Inter-Rill. Areas subject to sheet wash.

(108) Isolated wetlands. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

(109) Jetty. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

(110) Lahars. Mudflows and debris flows originating from the slopes of a volcano.

(111) Landslide hazard areas. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. For a complete definition, see WAC 365-190-120(6).

(112) Livestock. Animals that are raised for use and profit.

(113) Lot. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

(114) Low Intensity Land Use. A land use that is associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation uses, open space uses, and residential uses with less than five dwelling units per acre.

(115) Maintenance, normal. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

(116) Manufactured Homes. A dwelling unit built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act (42 U.S.C. 5401-5426), as it exists now or may hereafter be amended. A manufactured home also:

(a) Includes plumbing, heating, air conditioning, and electrical systems;

(b) Is built on permanent chassis; and

(c) Can be transported in one or more sections with each section at least 8 feet wide and 40 feet long when transported, or when installed on the site is 320 square feet or greater.

(117) Master Program. The comprehensive shoreline master program for the City of Pullman, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

(118) Mature forested wetland. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least thirty percent (30%) and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

(119) May. An action that is acceptable, provided it conforms to the provisions of the WAC 173-26 and this Program.

(120) Mine Hazard Areas. Areas that are underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth

from ground surface to the mine working, and geologic material.

(121) Mining. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

(122) Minerals. Materials including gravel, sand, and valuable metallic substances. [RCW 36.70A.030(11); WAC 365-190-030(12)].

(123) Mitigation. The use of any or all of the following actions that are listed in descending order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;

(d) Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;

(e) Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;

(f) Monitoring the impact and taking appropriate corrective measures.

(124) Mixed-use project. A use that contains a mix of water-dependent and nonwater-oriented uses or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

(125) Monitoring. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and

geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

(126) Moorage facility. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

(127) Must. A mandate; the action is required.

(128) Native vegetation. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

(129) No net loss of ecological function. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

(130) Nonconforming building or structure. A nonconforming building or structure is one that was once allowed by applicable land use regulations, but no longer would be allowed, due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

(131) Nonconforming lots. A nonconforming lot is one that was once allowed by applicable land use regulations but is no longer allowed, due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

(132) Nonconforming Use. A nonconforming use is a use that was once allowed by applicable land use regulations, but is no longer allowed due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

(133) Nonwater-oriented uses. Those uses that are not water-dependent, water-related, or water-enjoyment.

(134) Off-site compensation. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

(135) On-site compensation. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

(136) Ordinary high water mark (OHWM). That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

(137) Out-of-kind compensation. To replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. The determination of in-kind versus out-of-kind compensation for wetlands is dependent upon equivalency in wetland functions, not wetland categories.

(138) Permeability. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

(139) Permit. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

(140) Permit, Shoreline. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

(141) Pier. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

(142) Potable water. Water that is safe and palatable for human use.

(143) Poultry. Domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

(144) Practical alternative. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

(145) Preservation. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

(146) Priority habitat and species (PHS). As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that

are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(29)).

(147) Prohibited. Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation and are not considered appropriate and are not allowed.

(148) Project area. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

(149) Preferred uses. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

(150) Provisions. Policies, regulations, standards, guideline criteria or environment designations.

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

(152) Public interest. The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety,

or general welfare resulting from a use or development.

(153) Public Trust Doctrine. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

(154) Qualified professional. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

(a) A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;

(b) A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;

(c) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;

(d) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

(155) Recharge. The process involved in the absorption and addition of water to groundwater.

(156) Recharge area. An area in which water is absorbed and added to the groundwater reservoir.

(157) Reclaimed water. Municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment it is no longer considered wastewater (treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by the state Departments of Ecology and Health).

(158) Recreation. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking, bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

(159) Recreational Development. Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

(160) Recreation Vehicle. A vehicle that is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(161) Re-establishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in

rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

(162) Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

(163) Repair, normal. Restoring a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as a repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

(164) Residential. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

(165) Restore, restoration, or ecological restoration. The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

(166) Rill. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

(167) Rip-rap. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

(168) Salmonid. A member of the fish family salmonidae.

(169) Sediment. The fine grained material deposited by water or wind.

(170) Seeps. A spot where water oozes from the earth, often forming the source of a small stream.

(171) Seismic hazard areas. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

(172) EPA. Washington State Environmental Policy Act, Chapter 43.21C RCW.

(173) Setback. See "Yard, minimum required."

(174) Shall. A mandate; the action must be done.

(175) Shorelands or shoreland areas. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all

wetlands and river deltas associated with the streams and lakes which are subject to the provisions of this Master Program; the same to be designated as to location by the Department of Ecology.

(176) Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

(a) Shorelines of statewide significance [not found in Pullman];

(b) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and

(c) Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

(177) Shoreline areas and shoreline jurisdiction. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(178) Shoreline Hearings Board. A state-level six member quasi-judicial body, created by the Shoreline Management Act, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

(179) Shorelines of statewide significance. The following shorelines of the state are shorelines of statewide significance:

(a) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark [not found in Pullman];

(b) Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred

cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer [not found in Pullman]; and

(c) Those shorelands associated with (a) and (b), above.

(180) Shorelines of the state. Total of all "shorelines" and "shorelines of statewide significance" within the state.

(181) Shoreline environment designations. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

(182) Shoreline modifications. Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

(183) Shoreline stabilization. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

(184) Should. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

(185) Significant adverse effect/impact. Any noticeable or measureable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as

social values, such as public health, safety, or availability of public access.

(186) Significant portion of its range. That portion of a species range likely to be essential to the long-term survival of the population in Washington.

(187) Significant vegetation removal. Removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

(188) Slide. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

(189) Slope. The inclination of the surface of the land from the horizontal.

(190) SMA. The Washington State Shoreline Management Act, chapter 90.58 RCW.

(191) SMP Administrator. See "Administrator."

(192) Soft stabilization. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

(193) Soil survey. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

(194) Special Protection Areas. Aquifer recharge areas defined by WAC 173-200-090 that require special

consideration or increased protection because of unique characteristics, including, but not limited to:

(a) Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

(b) Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and

(c) Sole source aquifer status.

(195) Species. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

(196) Species, endangered. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

(197) Species of local importance. Those species of local concern designated by the City due to their population status or their sensitivity to habitat manipulation.

(198) Species, priority. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

(199) Species, threatened. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

(200) Species, sensitive. Any wildlife species native to the state of Washington that is vulnerable or declining

and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

(201) State master program. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

(202) Stockyards. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

(203) Stream. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

(204) Structure. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

(205) Sub-drainage basin or subbasin. The drainage area of the highest order stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

(206) Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal

or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(207) Substantial development. Any development of which the total cost or fair market value exceeds $6,416, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

(208) Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure, either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the

external dimensions of the structure. The term does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by City Building Inspection or Planning staff, or Whitman County Environmental Health and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

(209) Substantially degrade. To cause significant ecological impact.

(210) Transportation. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

(211) Unavoidable Impacts. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(212) Upland. The area above and landward of the OHWM.

(213) Use. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

(214) Utility. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

(215) Vadose zone analysis. The characterization of the soil profile above the water table.

(216) Variance. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

(217) Vegetation. Any and all organic plant life growing at, below, or above soil surface.

(218) Vernal pools. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

(220) Visitor-serving uses. Those uses or businesses that would not be located in the City of Pullman if it were not for the presence of tourists or visitors to the region.

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

(222) Water-enjoyment use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general

public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

(223) Water-oriented use. Any water-dependent, water-related, or water-enjoyment use.

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

(225) Water-related use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

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

(226) Water table. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

(227) Watershed restoration plan. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe

acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

(228) Watershed restoration project. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

(a) A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

(b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

(229) Waterward. Any point located on the water side from the OHWM.

(231) Weir. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

(232) Well. A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

(233) Wellhead Protection Area (WHPA). The portion of a zone of contribution for a well, wellfield or spring, as defined using criteria established by the state Department of Ecology.

(234) Wetlands. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

(235) Wetland buffer. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

(236) Wetland edge. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

(237) Wetland functions. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other functions including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

(238) Wetland mitigation bank. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

(239) Yard. An open space, other than a court, on the same lot with a building, unoccupied and unobstructed by a portion of a structure from the ground upward.

(240) Yard, minimum required. That minimum yard, either front, side, or rear, the dimensions of which are set by various sections of the City's zoning code.

(241) Zone of Contribution. The area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

Section 12: Under Part III. ADMINISTRATION AND PERMITTING, there is hereby added a new section 16.55.110 to the Pullman City Code that reads as follows:

16.55.110 General Compliance. RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

Section 13: There is hereby added a new section 16.55.120 to the Pullman City Code that reads as follows:

16.55.120 Administrative Authority and Responsibility.

(1) SMP Administrator. The City shall designate an SMP Administrator, which shall be the City Planner or his or her designee. The SMP Administrator or his/her designee is hereby vested with the authority to:

(a) Administrate this SMP.

(b) Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.

(c) To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.

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

(e) Make written recommendations to the Board of Adjustment, Planning Commission and City Council as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustment regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and City Council.

(f) Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.

(g) Determine and collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be established by resolution of the City Council.

(h) Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

(2) SEPA Official. The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11

and RCW 43.21(C). The responsible official is designated in accordance with the Pullman City Code.

(3) Board of Adjustment. The Board of Adjustment is authorized to grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.

(4) Hearing Examiner. The Hearing Examiner is authorized to decide on appeals of administrative decisions issued by the Administrator of this SMP.

(5) Planning Commission. The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

(6) City Council. The Pullman City Council is authorized to:

(a) Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

(b) Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

Section 14: There is hereby added a new section 16.55.130 to the Pullman City Code that reads as follows:

16.55.130 Administration.

(1) This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(2) Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of Chapter 17.10 (General Administration and Enforcement) and Subsection 16.55.160 (Shoreline Permits and Exemptions) of this SMP.

(3) Shoreline Variances shall be processed in the same manner as a variance from the City's zoning code (Title 17) and shall be subject to all applicable provisions of Chapters 17.10 (General Administration and Enforcement) and 17.15 (Board of Adjustment) and Subsection 16.55.160 (Shoreline Permits and Exemptions) of this Chapter.

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

(5) The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

Section 15: There is hereby added a new section 16.55.140 to the Pullman City Code that reads as follows:

16.55.140 Enforcement, Violations, and Penalities.

(1) The City of Pullman is authorized to enforce the provisions of this Chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

(2) This Program will be enforced by the means and procedures set forth in the Pullman City Code.

Section 16: There is hereby added a new section 16.55.150 to the Pullman City Code that reads as follows:

16.55.150 Shoreline Activity Tracking.

(1) Tracking. The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

(a) New shoreline development

(b) Shoreline variances and the nature of the variance

(c) Compliance issues

(d) Net changes in impervious surface areas, including associated stormwater management

(e) Net changes in fill or armoring

(f) Net change in linear feet of flood hazard structures

(g) Net changes in vegetation (area, character)

(2) No Net Loss Report. Using the information collected in Subsection 16.55.150(1), a no net loss report shall be prepared every eight years as part of the City's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Final Shoreline Analysis Report (August 2014), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

Section 17: There is hereby added a new section 16.55.160 to the Pullman City Code that reads as follows:

16.55.160 Shoreline Permits and Exemptions.

(1) Noticing Requirements.

(a) Applicants shall follow the noticing requirements of the City. At a minimum, the City shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Pullman City Code.

(b) Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

(2) Exemptions from a Substantial Development Permit - Application and Interpretation.

(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

(b) An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

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

(d) If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

(e) The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

(3) Exemptions Listed. The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter or Statement of Exemption, as provided for in Subsections 16.55.160(2) and 16.55.160(4).

(4) Letter or Statement of Exemption.

(a) Letter of Exemption

(i) A Letter of Exemption shall be issued by the City when a development application is determined to meet the listed criteria for an exemption and the development is subject to a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

(ii) The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with this SMP and the SMA. The Letter shall be sent to the applicant and the Department of Ecology.

(b) Statement of Exemption

(i) The City may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The Statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.

(ii) The City shall issue a Statement of Exemption to an applicant whose project meets any of the exemptions listed in Subsection 16.55.160(3) when the City has determined that said project may alter or disturb the ground or vegetation.

(c) Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

(5) Permit Application Submittal Requirements

(a) Shoreline applications are classified as follows:

(i) Shoreline Substantial Development Permit

(ii) Shoreline Conditional Use Permit

(iii) Shoreline Variance

(iv) Shoreline Exemption

(b) Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the City, including a combined permit application form.

(c) The contents of permit applications must be consistent with WAC 173-27-180 and Pullman City Code.

(d) Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP

Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

(e) At the time of application, the applicant must pay the application fee as set by resolution of the Pullman City Council.

(6) Shoreline Substantial Development Permit.

(a) A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 16.55.160(2) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 16.55.050 (Applicability).

(b) A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

(i) The policies and procedures of the SMA;

(ii) The provisions of WAC 173-27; and

(iii) This SMP.

(c) The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

(d) Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

(7) Shoreline Conditional Use Permit. A Shoreline Conditional Use Permit is intended to allow for the flexibility and the exercise of judgement in the application of regulations in a manner consistent with the policies of the Act and this Master Program. While not prohibited, these uses are an exception to the general rule.

(a) Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Board of Adjustment/Hearing Examiner and by Ecology.

Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Chapter 17.125 (Conditional Use Permits).

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

(c) Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

(d) Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.

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

(8) Shoreline Variance.

(a) The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Chapter 17.130 (Variances).

(b) Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

(c) Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.

(d) Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

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

Section 18: There is hereby added a new section 16.55.170 to the Pullman City Code that reads as follows:

16.55.170 Non-conforming Uses, Structures, Lots.

(1) Non-conforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do

not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable City regulations.

(2) Non-conforming Uses and Structures.

(a) Lots, structures, and uses that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant, are non-conforming uses that may continue without regard to ownership changes, so long as they are in compliance with this Program. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a non-conforming use.

(b) Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non-conforming use.

(c) If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.

(d) In accordance with Pullman City Code Chapter 17.30, when a non-conforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.

(e) In accordance with Pullman City Code Chapter 17.30, if any non-conforming use is not occupied or operated because its building has sustained damage amounting to less than seventy-five percent (75%) of its value, that use may be

reestablished if construction of a new or repaired building begins within one year of the date the damage occurred.

(f) In accordance with Pullman City Code Chapter 17.30, non-conforming single-family dwellings in the C2 and C3 districts may be enlarged or expanded provided that the minimum yard requirements for residences in the R4 zone district are observed.

(3) Non-conforming Lots.

(a) Development on non-conforming lots shall comply with this Master Program and Pullman City Code Section 17.30.040. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment designation and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including minimum yard requirements, dimensional standards, and lot coverage requirements.

(b) Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall apply mitigation sequencing and shall require a mitigation plan.

(4) Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

(a) Alteration, expansion, or restoration of non-conforming structures and uses are not allowed except as set forth in this Master Program and in Pullman City Code Section 17.30.030.

(b) Any nonconforming structure which is moved any distance must be brought into conformance with this Master Program and the SMA.

(c) A structure for which a variance has been issued shall be considered a legal non-conforming structure, and the requirements of this Section shall apply as they apply to pre-existing non-conforming structures and uses.

(d) Legally existing structures used for a conforming use but which are non-conforming with regard to setbacks, buffers, or yards; area; bulk; height or density may be maintained and repaired and may be enlarged or expanded, provided that said enlargement does not increase the extent of non-conformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(e) Alteration or expansion of a non-conforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

(5) Pre-existing Legal Residential Uses. Notwithstanding Subsections 16.55.170(1) through 16.55.170(4), the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Chapter:

(a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

(b) The City shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example,

vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

(c) Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location.

(d) For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

(e) Nothing in this Section shall:

(i) Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

(ii) Affect the application of other federal, state, or City requirements to residential structures.

Section 19: There is hereby added a new section 16.55.180 to the Pullman City Code that reads as follows:

16.55.180 Amendment of Shoreline Master Program.

(1) This SMP carries out the policies of the Shoreline Management Act for the City of Pullman. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

(a) Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and

(b) Assure consistency of this SMP with the City's codes and development regulations adopted under

chapter 36.70A RCW, if applicable, and other local requirements.

(2) This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

(3) The SMP may be amended annually or more frequently as needed consistent with WAC 173-26-100 through 120.

(4) Future amendments to this SMP may be initiated by any of the following:

(a) City of Pullman SMP Administrator;

(b) The City Planning Commission, upon their initiative, or at the request of the City Council by motion, or at the request of the SMP Administrator; and

(c) The City Council.

(5) Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made by a written request delivered to either the SMP Administrator or the City Council. Such written request shall contain information specified in the City's procedures for regulation amendments and information necessary to meet minimum public review procedures.

(6) The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

(7) Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the City Council, who shall approve or deny the proposed amendment following their open record hearing.

(8) Prior to approval, the City shall make a finding that the amendment would accomplish (a) or (b) of this subsection, and must accomplish (c) of this subsection:

(a) The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

(b) The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and

(c) This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).

(9) After approval or disapproval of an SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.

Section 20: Under Part IV. SHORELINE VISION AND GOALS, there is hereby added a new section 16.55.190 to the Pullman City Code that reads as follows:

16.55.190 Shoreline Vision. It shall be the ultimate goal of the City of Pullman SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the City of Pullman regarding the balanced use of the City's shoreline.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

Section 21: There is hereby added a new section 16.55.200 to the Pullman City Code that reads as follows:

16.55.200 Shoreline Goals.

(1) Shoreline Use.

(a) Support shoreline uses that are consistent with the existing and historic pattern of development in the City of Pullman to maintain and enhance the local economy and expand visual and physical public access to the shoreline.

(b) Promote the best use of the City of Pullman shoreline through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.

(c) Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the City as well as the shoreline environments, habitat, and ecological systems.

(2) Economic Development.

(a) Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the City of Pullman's shorelines. Shoreline economic growth and prosperity should take into account the historic development pattern and existing character of the built environment.

(b) Permit those commercial, industrial, recreational, and other developments that are appropriately located along the shoreline and which may contribute to the economic well-being of the City of Pullman while achieving no net loss of ecological function.

(c) Promote new water-dependent, water-related, and water-enjoyment economic development, with

preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

(3) Public Access.

(a) Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the City of Pullman's shorelines.

(b) Ensure an adequate supply of safe public access to the City of Pullman's shoreline.

(c) Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

(4) Recreation.

(a) Protect and expand opportunities for recreation in the City of Pullman's shoreline areas, including but not limited to parks and other recreational areas.

(b) Encourage and maximize water-oriented recreational opportunities along the shoreline.

(5) Conservation.

(a) Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

(b) Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

(c) Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

(6) Transportation and Circulation.

(a) Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the City of Pullman's shorelines.

(b) Maintain adequate safety, environmental, and aesthetic standards for existing and new transportation systems within shoreline jurisdiction.

(c) Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

(7) Restoration.

(a) Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.

(b) Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

(8) Archaeological, Historical, and Cultural Resources. Identify, preserve, protect and restore buildings, sites, or areas of the shoreline that have historic, cultural, archeological, scientific, or educational value.

(9) Flood Hazard Management. Protect the City of Pullman from losses and damage created by flooding along the shoreline.

Section 22: Under Part V. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS, there is hereby added a new section 16.55.210 to the Pullman City Code that reads as follows:

16.55.210 Shoreline Jurisdiction and Use Preferences.

(1) Definition.

(a) As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres.

(b) Shorelands, as adopted by the City of Pullman and indicated on the Official Shoreline Maps available for review in the Planning Department, are defined as:

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

The City of Pullman will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

(c) The extent of shoreline jurisdiction is indicated on the Official Shoreline Maps available for review in the City Planning Department. The purpose of the Official Shoreline Maps is to identify Environment Designations (Section 16.55.220). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

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

(2) General Shoreline Use Preferences.

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

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

In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the

state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the [D]epartment [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

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

(b) When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-

26-201(2)(d) shall be applied in the order presented below:

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

(ii) Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

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

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

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

Section 23: There is hereby added a new section 16.55.220 to the Pullman City Code that reads as follows:

16.55.220 Shoreline Environment Designations.

(1) Shoreline Residential.

(a) Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

(b) Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

(c) Management Policies:

(i) Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

(ii) Multi-family and multiple-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

(iv) Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

(2) Shoreline Parks.

(a) Purpose: The purpose of the Shoreline Parks environment is to:

(i) Protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and

(ii) Ensure appropriate management and development of existing and future public parks and recreation areas.

(b) Designation Criteria: Assign a Shoreline Parks environment designation to shoreline areas if any of the following characteristics apply:

(i) They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;

(ii) They are suitable for water-related or water-enjoyment uses;

(iii) They are open space, floodplain or other sensitive areas that should not be more intensively developed;

(iv) They have potential for ecological restoration;

(v) They retain important ecological functions, even though partially developed; or

(vi) They have the potential for development that is compatible with ecological restoration.

(c) Management Policies:

(i) Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a non-permanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

(ii) Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.

(iii) Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific,

historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.

(iv) Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(v) Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.

(vi) Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.

(vii) Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

(3) High Intensity.

(a) Purpose: The purpose of the High Intensity environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(b) Designation Criteria: Assign a High Intensity environment designation to shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

(c) Management Policies.

(i) Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or in areas of traditional non-water-oriented uses such as retail and similar uses in the Downtown. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

(ii) When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

(iii) New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

(iv) Where feasible, visual and physical public access should be required as part of development in the High Intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

(v) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

(4) Aquatic.

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

(b) Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

(c) Management Policies:

(i) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

(ii) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

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

(iv) All developments and uses should be located and designed to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(v) Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where

necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

(5) Environment Designation Interpretation.

(a) If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:

(i) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

(ii) In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.

(iii) Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.

(iv) Boundaries indicated as approximately parallel to or extensions of features indicated in (i), (ii), or (iii) of this subsection shall be so construed.

(b) In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Part III (Administration and Permitting) and the City's appeal procedures in Section 16.39.170

(Appeals). Each appeal filed under Subsection 16.55.220(5)(b) shall be accompanied by a filing fee in such sum as the City Council may set by resolution. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), an SMP amendment may be obtained consistent with WAC 173-26-100 and Section 16.55.180 (Amendment of Shoreline Master Program).

(c) All shoreline areas waterward of the OHWM shall be designated Aquatic.

(d) All shoreline areas upland of the OHWM shall be designated Shoreline Residential, Shoreline Parks, or High Intensity.

(e) Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map.

(6) Pre-Designation of Urban Growth Area. The City of Pullman has adopted shoreline environment pre-designations for shorelines located outside of City limits, but within the City's urban growth area. In the event of annexation of a shoreline, the affected area shall be subject to the Pullman Shoreline Master Program upon the effective date of the annexation.

(7) Official Shoreline Maps and Unmapped or Undesignated Shorelines.

(a) The Official Shoreline Maps at the time of SMP adoption, which illustrate the approximate shoreline jurisdiction and environment designations in the City, are available for review in the City Planning Department. The Official Shoreline Maps shall include the following language: "The City of Pullman certifies that this map, dated the 29th day of March, constitutes the Official Shoreline Map, as

approved by Pullman City Council Ordinance No. 16-3 signed by the Mayor." The Official Shoreline Maps may be updated administratively or through an SMP amendment as indicated in Subsections 16.55.220(7)(b) through 16.55.220(7)(d). The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

(b) Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.

(c) All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned a Shoreline Parks designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 16.55.180 (Amendment of Shoreline Master Program).

(d) The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

(8) Any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associated wetlands, for example, may be developed at the site-specific scale and site conditions may change over time. Revisions to the Official Shoreline Maps may be made as outlined in Subsection 16.55.220(7)(a) without an SMP amendment.

Section 24: Under Part VI. GENERAL POLICIES AND REGULATIONS, there is hereby added a new section 16.55.230 to the Pullman City Code that reads as follows:

16.55.230 Introduction. General policies and regulations are applicable to all uses and activities that occur within all Shoreline Environment Designations. The policies and regulations found in this chapter are intended to be used in conjunction with the more specific use and activity regulations found in the following chapters. These policies apply to all uses within the jurisdiction, whether or not a separate shoreline permit is required. These policies may be used to condition any required permit or letter of exemption or statement of exemption.

Section 25: There is hereby added a new section 16.55.40 to the Pullman City Code that reads as follows:

16.55.240 Shoreline Use and Development Regulations.

(1) Policies.

(a) Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.

(b) Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.

(c) Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.

(d) Protect current agricultural uses on agricultural land and provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.

(e) The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.

(f) Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

(2) Regulations.

(a) All uses in the shoreline shall comply with the City's development code and this Program.

(b) The shoreline use and modification table (Table 16.55.320-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

(c) All structures in the shoreline shall be designed and constructed consistent with the underlying zoning and shall not exceed 35 feet above average grade level, consistent with RCW 90.58.

(d) To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).

(e) In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

(f) The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

Section 26: There is hereby added a new section 16.55.250 to the Pullman City Code that reads as follows:

16.55.250 Environmental Protection.

(1) Policies.

(a) Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

(b) Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the City's environmental resources (air, ground and surface waters, and indigenous biology).

(c) Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of City residents.

(2) Regulations.

(a) Ecological Functions. Uses and developments on the City's shoreline must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

(b) Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of SMP Part VII (Shoreline Critical Areas Policies and Regulations).

(c) Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 16.55.250(2)(d) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 16.55.250(2)(d):

(i) If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or

(ii) When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

(iii) When specifically required by regulations contained in this SMP.

(d) Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 16.55.250(2)(c) must describe how the proposal will follow the sequence of mitigation as defined below:

(i) Avoid the impact altogether by not taking a certain action or parts of an action;

(ii) Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(iii) Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

(iv) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

(v) Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and

(vi) Monitor the impact and the compensation projects and take appropriate corrective measures.

(e) Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

(i) Removal of native plant communities in shoreline jurisdiction,

(ii) Removal of native or non-native trees that overhang the water,

(iii) Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,

(iv) Removal or alteration of priority habitats or habitat for priority species,

(v) Construction of new or expanded in- and over-water structures,

(vi) Construction of new or expanded shoreline stabilizations,

(vii) New discharges of water into shoreline waters that may introduce pollutants,

(viii) Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or

(ix) Changes in grading or fill that reduce floodplain capacity.

(f) Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City of Pullman, but may be voluntarily performed by an applicant. In addition to any requirements found in Part VII (Shoreline Critical Areas Policies and Regulations) a mitigation plan must include:

(i) An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;

(ii) A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;

(iii) A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

(iv) A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

(v) Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;

(vi) A contingency plan if mitigation fails to meet established success criteria; and

(vii) Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

(g) Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools

include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

Section 27: There is hereby added a new section 16.55.260 to the Pullman City Code that reads as follows:

16.55.260 Shoreline Vegetation Conservation.

(1) Policies.

(a) Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

(b) Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

(2) Regulations.

(a) Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

(b) Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas within shoreline jurisdiction must be managed consistent with Part VII (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Section 16.55.400 (Fish and Wildlife Habitat Conservation Areas).

(c) Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 16.55.250 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Pullman City Code.

(d) Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Pullman City Code. Mitigation sequencing per Subsection 16.55.250(2)(d) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.

(e) Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

(i) Removal of native trees, shrubs or groundcovers;

(ii) Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes or stream banks; or

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

Mitigation plans must be prepared by a qualified professional or under the supervision of a

government agency or the Palouse Conservation District, and must contain information required in Subsection 16.55.250(2)(f). All mitigation plantings shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

(f) Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

(g) Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

(h) Invasive Species Control.

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

(ii) Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.

(aa) Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

(bb) Coordination with the applicable local conservation district is encouraged prior to undertaking invasive or noxious weed removal projects to ensure

that the control and disposal technique is appropriate.

(cc) Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

(dd) Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

(iii) Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

Section 28: There is hereby added a new section 16.55.270 to the Pullman City Code that reads as follows:

16.55.270 Water Quality, Stormwater, and Nonpoint Pollution.

(1) Policies.

(a) Maintain and improve the water quality and quantity of the City's shorelines, and preserve surface and groundwater for the beneficial use of the City's citizens and wildlife over the long term.

(b) Prevent impacts to water quality and surface water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.

(c) Encourage effective erosion and sedimentation controls for construction in shoreline areas.

(2) Regulations.

(a) Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions.

(b) Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

(c) Requirements for new development.

(i) New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the latest edition of the Stormwater Management Manual for Eastern Washington (2004) or approved equivalent. If certain thresholds are not met by a development that trigger compliance with the Stormwater Management Manual or approved equivalent, best management practices (BMPs) must still be employed to

avoid and minimize potential adverse effects.

(ii) When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

(d) Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

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

(f) Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

Section 29: There is hereby added a new section 16.55.280 to the Pullman City Code that reads as follows:

16.55.280 Flood Hazard Management.

(1) Policies.

(a) Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures except where they are necessary to protect existing development and

where non-structural flood hazard reduction measures are infeasible.

(b) Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

(c) Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

(2) Regulations.

(a) Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 16.55.250 (Environmental Protection) and Section 16.55.380 (Frequently Flooded Areas) as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

(b) The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review in the City Planning Department. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a

licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

(c) The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 16.55.380 (Frequently Flooded Areas):

(i) Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

(ii) New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

(iii) Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

(iv) Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. *(For the purposes of this Section, "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards])* Where such structures are

allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

(v) New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

(vi) Water-dependent installations which by their very nature must be in the floodway.

(vii) Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.

(viii) Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

(ix) Uses and developments allowed in the floodway under Section 16.55.380 (Frequently Flooded Areas) provided they are otherwise consistent with all provisions of Part VII (Shoreline Critical Areas Policies and Regulations) and other requirements of this SMP.

(d) Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such

as channel migration, or undermine existing structures or downstream banks.

(e) New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

(f) New public and private structural flood hazard reduction measures:

(i) Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

(aa) That they are necessary to protect existing development;

(bb) That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

(cc) That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

(dd) That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

(ee) That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

(ff) That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

(ii) Shall be consistent with an approved comprehensive flood hazard management plan.

(iii) Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

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

(h) In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing City-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

(i) The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 16.55.530 (Dredging and Dredge Material Disposal) and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

Section 30: There is hereby added a new section 16.55.290 to the Pullman City Code that reads as follows:

16.55.290 Archaeological, Historical, and Cultural Resources.

(1) Policies.

(a) Continue to regulate archaeological, historic, and cultural resources.

(b) Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

(2) Regulations.

(a) If any archeological resources are uncovered during excavations in shoreline jurisdiction, work must be stopped and the developer and property owners must notify the City of Pullman, the State Department of Archaeology and Historic Preservation, as well as any affected Indian Tribes.

(b) Permits issued in areas known to have, or suspected of having, archeological artifacts or resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected Tribes prior to initiating disturbance. Cost of the evaluation

and inspection is the responsibility of the permit applicant. Those artifacts deemed significant shall be recovered before work begins or resumes.

Section 31: There is hereby added a new section 16.55.300 to the Pullman City Code that reads as follows:

16.55.300 Public Access.

(1) Policies.

(a) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while recognizing that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.

(b) Consistent with the overall best interest of the state and the people of the City of Pullman, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views, by regulating the design, construction, and operation of permitted uses in the City's shoreline jurisdiction.

(c) Recognize and facilitate implementation of existing City parks, recreation, and open space plans.

(d) Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals identified in any City parks, recreation, and/or open space plans.

(2) Regulations.

(a) Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with

the public's physical or visual access to the water and shorelines.

(b) The City adopts the City of Pullman 2014-18 Parks & Recreation Five Year Plan by reference as its shoreline public access plan for the City's shorelines as it exists now and amended in the future.

(c) In compliance with RCW 35.79.035, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.

(d) Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

(e) Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:

(i) The development is proposed or funded by a public entity or is on public lands;

(ii) The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;

(iii) The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or

(iv) The proposed use, activity or development will interfere with the public use, activity

and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.

(v) The proposed use is a multiple-unit residential development or a subdivision of land for more than four parcels.

(f) An applicant shall not be required to provide public access where the City determines that one or more of the following conditions apply:

(i) Proposed use, activity or development only involves the construction of four or fewer single-family or multi-family dwellings or subdivision of four or fewer lots;

(ii) The proposed use, activity or development only involves agricultural activities;

(iii) The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

(iv) The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

(v) The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

(vi) Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

(vii) Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

(g) Public access locations shall be clearly marked and available to the public.

(h) The City may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

(i) Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

(j) The City shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

(k) Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

Section 32: There is hereby added a new section 16.55.310 to the Pullman City Code that reads as follows:

16.55.310 Unclassified Uses. Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 16.55.160(7) of the SMP are met. Unclassified uses approved as conditional uses should also

remain consistent with the policies of this Program and RCW 90.58.020.

Section 33: There is hereby added a new section 16.55.320 to the Pullman City Code that reads as follows:

16.55.320 Shoreline Use and Modification Table. All uses and developments in the Town's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

Table 16.55.320-1 Shoreline Use and Modification Table

Shoreline Use or Modification	Shoreline Residential	Shoreline Parks	High Intensity	Aquatic
Key: **P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]** **C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP** **X = Prohibited Use** **N/A = Not Applicable**				
Agriculture				
Existing Agricultural Activities	Not regulated under this SMP			
New Agricultural Activities	C	P	P	N/A
Agricultural Related Activities	C	X	P	N/A
Aquaculture				
Commercial	X	X	X	X
Non-commercial	X	P	P	P
Boating Facilities				
Boating Facilities	X	X	X	X
Breakwaters, Jetties, Weirs and Groins				
To protect or restore ecological functions	P	P	P	P
All other purposes	C	C	C	C
Commercial Development				
Visitor-serving uses	C	C	P	C
Recreation concessions	P	P	P	P
Other retail, trade or service				
General	C	C	C	C
Separated from Shoreline[2]	C	P	P	N/A
Mixed-use project that includes a Water-Dependent Use	C	P	P	P
Dredging and Dredge Material Disposal				
Dredging	N/A	N/A	N/A	P
Dredge Material Disposal[3]	X	C	P	C
Fill and Excavation				
Waterward of the OHWM - restoration	N/A	N/A	N/A	P
Waterward of the OHWM - other	N/A	N/A	N/A	C
Upland of the OHWM	P	P	P	N/A
Flood Hazard Management				
Flood Hazard Facilities	P	P	P	C
Forest Practices				
Forest Practices	X	X	X	N/A
Industrial Development				
Water-Oriented	X	X	P	P
Nonwater-Oriented				
General	X	X	C	X
Separated from Shoreline[2]	X	X	P	N/A
Mixed-use project that includes a Water-Dependent Use	X	X	P	P
In-Stream Structures				

Shoreline Use or Modification	Shoreline Residential	Shoreline Parks	High Intensity	Aquatic

Key:
P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]
C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP
X = Prohibited Use
N/A = Not Applicable

To protect public facilities; protect, restore, or monitor ecological functions or processes; protect water-dependent uses; or support agriculture	P	P	P	P
Other	C	C	P	See adjacent upland designation
Mining				
Mining	X	X	X	X
Recreational Development				
Water-Oriented	P	P	P	P
Nonwater-Oriented				
General	C	C	C	X
Separated from shoreline[2]	P	P	P	N/A
Redevelopment, Repair, and Maintenance				
Redevelopment, Repair, and Maintenance Projects	P	P	P	P
Residential Development				
Single-Family Dwelling	P	X	X	X
Multi-Family Dwelling	C	X	P	X
Manufactured Homes	New: C Existing: P	X	X	X
Shoreline Restoration and Enhancement				
Shoreline Restoration and Enhancement Projects	P	P	P	P
Shoreline Stabilization				
New Hard Stabilization	P	C	P	See adjacent upland designation
New Soft Stabilization	P	P	P	See adjacent upland designation
Repair and Replacement	P	P	P	P
Transportation and Parking				
Expansion of Existing Transportation and Parking Facilities	P	P	P	C
New Access Roads Serving Permitted Uses	P	P	P	N/A
New Highways, Freeways, Arterials & Collectors	C	P	P	N/A
New Bridges	C	C	P	C
New Railways	C	C	P	C
New Airstrips	X	X	X	N/A
New Trails	P	P	P	P
New Parking to Support Authorized Use[4]	P	P	P	N/A
Utilities				
Expansion of Existing Utilities	P	P	P	C
New Utility Services Accessory to Individual Shoreline Projects	P	P	P	C
New Utility Services to Projects outside Shoreline Jurisdiction	C	C	P	C
New Power Generating Facilities	C	C	P	C
New Utility Transmission Lines	P	P	P	C
New Utility Services, General	P	P	P	C
New Wastewater Treatment Facility	C	C	C	C

[1] The determination of whether a permitted use requires a Shoreline Substantial Development Permit or is exempt from a permit depends on whether the specific proposal meets the criteria for a shoreline exemption as identified in Subsection 16.55.160(3) and WAC 173-27-040. This determination is made by the Shoreline Administrator as outlined in Subsection 16.55.120(1).

[2] Note: Sites "separated from shoreline" are those sites physically separated from the shoreline by another property or public right of way.

[3] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.

[4] Parking as a primary use is prohibited in all designations per WAC 173-26-241(3)(k)).

Section 34: There is hereby added a new section 16.55.330 to the Pullman City Code that reads as follows:

16.55.330 Shoreline Development Standards.

(1) Minimum Standards. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 16.55.330-1. In addition, shoreline developments shall comply with all other dimensional requirements of the Pullman City Code.

(2) Departures from Standards. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

Table 16.55.330-1

Development Standard	Shoreline Residential	Shoreline Residential - Urban Growth Area	Shoreline Parks	High Intensity
	R1: SF Residential R4: High Density MF Residential C2: CBD I2: Heavy Industrial	R2: Low Density MF Residential MHP: Manufactured Home Park Overlay District C3: General Commercial		
Minimum Lot Size	R2: 6,000 sf R4: 5,000 sf C3: 10,000 sf MHP: Refer to Subsection 17.105.040(2)(c)	R1: 6,000 sf R2: 6,000 sf	C3: 10,000 sf R2: 6,000 sf WSU: Refer to Subsection 17.90.030	R1: 6,000 sf I2: 10,000 sf (min. 75 ft street frontage) C3: 10,000 sf
Minimum Lot Width	R2: the greater of 60 ft or 25% of lot depth R4: the greater of 50 ft or 25% of lot depth C3: N/A MHP: Refer to Subsection 17.105.040(2)(c)	The greater of 125 feet or 25% of lot depth as measured where the property lines intersect the OHWM	C3: N/A R2: the greater of 60 ft or 25% of lot depth WSU: Refer to Subsection 17.90.030	R1: the greater of 60 ft or 25% of lot depth I2: N/A C3: N/A
Building Height Maximum [1]	35 ft	35 ft	35 ft [2]	35 ft [2]
Shoreline Buffer	Refer to Subsection 16.55.400(4)(c)(iv)	Refer to Subsection 16.55.400(4)(c)(iv)	Refer to Subsection 16.55.400(4)(c)(iv)	Refer to Subsection 16.55.400(4)(c)(iv)

[1] Utility facilities and bridges are not required to meet the 35-foot height limit standard.

[2] If a property has an underlying zoning classification pursuant to Title 17 that allows buildings taller than 35 feet, a building or structure may be constructed on that property to the height limit of the underlying zone, subject to the applicant demonstrating the following to the satisfaction of the SMP Administrator:

a. Demonstrates overriding considerations of the public interest will be served; and,
b. Demonstrates that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair designated scenic vistas.

Section 35: Under Part VII. SHORELINE CRITICAL AREAS POLICIES AND REGULATIONS, there is hereby added a new section 16.55.340 to the Pullman City Code that reads as follows:

16.55.340 Policies.

(1) Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

(2) Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

(3) Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

Section 36: There is hereby added a new section 16.55.350 to the Pullman City Code that reads as follows:

16.55.350 General Regulations.

(1) Purpose.

(a) The purpose of this Chapter is to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

(b) This Chapter is established to implement the goals, policies, guidelines, and requirements of the City of Pullman Comprehensive Plan, the Shoreline Management Act, and the Growth Management Act.

(c) The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the City and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection;

and recreation. These beneficial functions are not listed in order of priority.

(d) By identifying development impacts to critical areas, this Chapter seeks to:

(i) Protect members of the public, public resources, and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;

(ii) Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;

(iii) Direct activities not dependent on critical area resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and,

(iv) Prevent cumulative adverse environmental impacts to water quality, wetlands and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas and habitat conservation areas.

(e) This Chapter is intended to protect critical areas in accordance with the Shoreline Management Act and through the application of the most current, accurate, and complete scientific and technical information available, and in consultation with state and federal agencies and other qualified professionals.

(f) This Chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of property.