

- C. All in-stream structures shall demonstrate that they result in no net loss of ecological functions and applications shall detail all mitigation measures, include detailed mitigation plans, timetables for implementation, and a monitoring program.
- D. In-stream structures and their support facilities shall be located and designed to minimize the need for shoreline defense structures. When shoreline defense structures are demonstrated as necessary, they shall be approved in accordance with Section 26.40.10 Shoreline Stabilization.
- E. In-stream structures and associated facilities shall avoid, and where avoidance is not feasible shall mitigate, adverse land use impacts including impacts to public access facilities, publicly owned lands or waters used for recreation, and public and private recreation facilities. Impacts to be avoided include the visual impact of the structure or facilities, the intrusion of roads or utility corridors into undeveloped area used for recreation, noise and impacts from reduced water flows.
- F. In-stream structures shall be designed and constructed to provide public access to and along the shoreline, in accordance with the public access policies and regulations contained in Section 26.20.050. Existing public access and recreational opportunities should be retained, enhanced, or replaced. [Ord. 25-14 § 1.01]

Chapter 26.50 PERMIT ADMINISTRATION AND ENFORCEMENT

26.50.001 Administrator.

The deputy city manager for community and development services or his designee shall administer and be responsible for the enforcement of the Richland shoreline master program. [Ord. 25-14 § 1.01]

26.50.010 Permit requirements.

- A. Substantial developments proposed on shorelines of Richland shall be allowed subject to the issuance of a permit from the City of Richland. Applications for Substantial Development Permit, Special Use Permit, and Variance shall be required to comply with the permit review provisions established by the State of Washington (Chapter 173-27 WAC) and the City of Richland and shall be accompanied by a standard fee as set forth in the schedule of fees in RMC 19.80. Application forms containing the information required by WAC 173-27-180 shall be provided by the Shoreline Administrator.
- B. Shoreline permits shall be classified Type I or Type II permit applications according to the criteria established in RMC 19.20.010.
 - 1. Decision authority for Shoreline Substantial Development Permits meeting the criteria for Type I permit applications shall rest with the Administrator.
 - 2. Decision authority for Shoreline Substantial Development Permits classified as Type II permit applications and all Special Use Permits shall rest with the Hearing Examiner.
 - 3. Decision authority for shoreline Variances shall rest with the Hearing Examiner.
- C. Application for a Substantial Development Permit or Special Use Permit shall be considered a request for Site Plan Approval as outlined in RMC 23.48. [Ord. 25-14 § 1.01]

26.50.011 Coordination with other agencies.

The City will coordinate on issues relating to ecological conditions, functions, and processes and on wetland and ordinary high water delineations with the Washington State Department of Ecology, the Department of Natural Resources, and the Department of Fish and Wildlife, as well as other agencies with permit authority over a project to the extent that agencies are timely in their response and coordination does not unduly extend review times. [Ord. 25-14 § 1.01]

26.50.012 Development compliance.

- A. All uses and developments within the jurisdiction of the Shoreline Management Act shall be planned and carried out in a manner that is consistent with this Program and the policies of the Act as required by RCW 90.58.140(1), regardless of whether a Shoreline Substantial Development Permit, Statement of Exemption, Shoreline Variance, or Shoreline Special Use Permit is required. The City shall ensure compliance with the provisions of this Program for all permits and approvals processed by the City.
- B. Regulation of private property to implement any Program goals such as public access and protection of ecological functions must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060. An applicant requesting specific accommodation of constitutional or other legal limits in the application of standards and criteria of this Program must do so in application materials. The decision maker shall address such requests in specific findings.
- C. Policies and provisions of this program and RCW 90.58 including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
- D. In reviewing all permits, consideration shall be given to the cumulative impact of existing development, approved but not yet constructed development, and the likelihood of additional requests for like actions to the extent such uses are allowed in an area and development trends indicate a reasonable likelihood of occurrence. The city shall track, and periodically evaluate the cumulative effects of all project review actions in shoreline areas.
- E. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Hydraulic Permit Act (HPA) permits, U.S. Army Corps of Engineers Section 404 permits, Washington State Department of Ecology Water Quality Certification (Section 401) National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter. [Ord. 25-14 § 1.01]

26.50.020 Exemptions from substantial development permit.

- A. A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to RCW 90.58.140(1).
- B. The following shall not be considered substantial developments for the purpose of this Master Program and are exempt from obtaining a Shoreline Substantial Development Permit (SSDP), provided that any additional exemptions established by legislative amendment of the statute shall constitute exemptions without amendment to this code. An exemption from an SSDP is not an exemption from compliance with the Act or the Shoreline Master Program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of the applicable master program and the Shoreline Management Act. A use or development exempt from a Shoreline Substantial Development Permit may require a Special Use Permit or a Variance.
1. Governor's Certification: Any project with a certification from the Governor pursuant to Chapter 80.50 RCW.
 2. Projects valued at or below the amount established by RCW 90.58.030(3) (e) as amended for consumer price index inflations.
 3. Maintenance and Repair: Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements.
 - a. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.
 - b. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the shoreline resource or environment.
 - c. Replacement of a structure or development may be authorized as 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.
 4. Emergency Construction: Emergency construction necessary to protect property from damage by the elements.
 - a. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow for full compliance with the Shoreline Master Program.
 - b. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed to be the appropriate means to address the emergency situation, upon abatement of the emergency situation, the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, chapter 173 -27 WAC or this Shoreline Program shall be obtained.

- c. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the Shoreline Master Program.
- d. In general, flooding or other seasonal events that can be anticipated and may occur, but that are not imminent, are not an emergency.
- 5. Agricultural Construction or Practices: Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures, including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling, other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. 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.
- 6. Construction of Single-Family Residence and Accessory Buildings: Construction on shorelands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level as defined in WAC 173-27-030, and which meets all requirements of the State agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this Section.
 - a. "Single family" residence means a detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single family residence and is located landward of the OHWM and the perimeter of a wetland.
 - b. Construction authorized under this exemption shall be located landward of the OHWM.
- 7. Construction of Non-Commercial Docks: Construction of a dock, including a community dock designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multi-family residences. This exception applies if
 - a. The fair market value of the dock does not exceed ten thousand dollars (\$10,000.00); however, if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500.00) occurs within five (5) years of completion of the prior construction, the subsequent construction shall require a substantial development permit; and
 - b. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities, or other appurtenances.
 - c. The dock meets all requirements of this code. A private dock generally is prohibited.
- 8. Construction Authorized by the Coast Guard: Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

9. Operation, Maintenance, or Construction Related to Irrigation: Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater for the irrigation of lands.
10. Marking of Property Lines on State-Owned Lands: The marking of property lines or corners on State-owned lands when such marking does not interfere with the normal public use of the surface of the water.
11. Operation and Maintenance of Agricultural Drainage or Dikes: Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975 which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system.
12. Activities Necessary for Permit Application: Site exploration and investigation activities that are prerequisites to preparation of an application for development authorization under the Shoreline Master Program, if:
 - a. the activity does not interfere with the normal public use of the surface waters;
 - b. the activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. the activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. a private entity seeking development authorization under the Shoreline Master Program first posts a performance bond or provides other evidence of financial responsibility to the Administrator to ensure that the site is restored to pre-existing conditions; and
 - e. the activity is not subject to the permit requirements of RCW 90.58.550.
13. Removal or Control of noxious Weeds: The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other State agencies under chapter 43.21C RCW.
14. Watershed Restoration Projects: Watershed restoration projects as defined below:
 - a. "Watershed restoration project" means 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:
 - i. A project that involves less than ten (10) miles of stream reach, in which less than twenty five (25) 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.
 - ii. 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.

permit with an additional finding recorded by the administrator addressing the grounds under which the permit is exempt.

- B. Any person claiming exemption from the permit requirements of this Master Program as a result of the exemptions specified in this Section may make application for an exemption certificate to the administrator in the manner prescribed by the City.
- C. Any project for which Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The City shall transmit an exemption certificate addressed to the applicant and the Department of Ecology, whenever a development is subject to one or more of the following federal permit requirements:
1. A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899; (The provisions of section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.) or
 2. A section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of section 404 of the Federal Water Pollution Control Act generally apply to any project which may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)
 3. 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 local government's analysis of the consistency of the project with the master program and the act.
- D. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of any project with the Shoreline Management Act and this Shoreline Master Program. [Ord. 25-14 § 1.01]

26.50.030 Shoreline permit application procedures.

In addition to the public notice requirements of Title 19 Development Regulation Administration the following notice shall be provided for each application for a shoreline management substantial development, special use, or variance permit.

- A. Within fourteen days after the city has made a determination of completeness on the project permit application the city shall issue public notice including
1. The date of application, the date of the notice of completion for the application, and the date of the notice of application;
 2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070, 36.70B.090, and WAC 173-27-180;
 3. The identification of other permits not included in the application to the extent known by the local government;
 4. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;
 5. A statement of the public comment period, which shall be not less than thirty days following the date of notice of application,

6. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. Public comments shall be accepted at any time prior to the closing of the record of an open record hearing, if any, or, if no open record hearing is provided, prior to the decision on the project permit;
 7. The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;
 8. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency; and
 9. Any other information determined appropriate by the administrator.
- B. Public notice shall include:
1. Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the development is proposed
 2. Posting on the property.
 3. Publication at least once in the official newspaper of the city.
 4. If an open record public hearing is required, a notice shall be provided at least fifteen (15) days prior to the hearing. [Ord. 25-14 § 1.01]

26.50.040 Approval criteria.

In order to approve any development within SMP jurisdiction, the City must find that a proposal is consistent with the following criteria in addition to the requirements of RMC Title 19, Permit Administration.

- A. Conformance with the Shoreline Management Act of 1971, as amended;
- B. General conformance with the goals for the shoreline program, the general development policies for the plan elements, and the applicable policy statements for the use activity and the shoreline environment;
- C. Compliance with use regulations of the Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed, particularly the preference for water-oriented uses, subject to liberal construction to give full effect to the objectives and purposes for which they have been enacted. If a non-water-oriented use is approved, the decision maker shall enter specific findings documenting why water-oriented uses are not feasible.
- D. Compliance with bulk and dimensional regulations of the Shoreline Master Program appropriate to the shoreline designation and the type of use or development proposed, except those bulk and dimensional standards that have been modified by approval of a shoreline variance.
- E. Consideration of the recommendations and comments of the Richland parks and recreation commission, as the proposed development will affect and be affected by the goals and objectives of City plans for parks, trails, and open space;
- F. General conformance with the provisions of the Richland comprehensive plan;
- G. Consideration of provisions for facilities and improved designs to accommodate and encourage use by the physically handicapped;
- H. Compliance with the State Environmental Policy Act (SEPA) RCW 43.21C; and

I. Compliance with applicable provisions of the Richland Municipal Code. [Ord. 25-14 § 1.01]

26.50.050 Special use permit.

- A. Certain uses are indicated in the use chart as being permitted subject to the granting of a special use permit. The purpose of a special use permit is to provide greater flexibility in administering the use regulations of the shoreline program to accommodate certain uses which, by nature of use, intensity, or impact on an area, cannot be permitted outright within a shoreline environment in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program. (A Special Use permit is the same as a Conditional Use in WAC 172-27-160.)
- B. Applications for special use permits for development on shorelines shall be considered a request for site plan approval and shall also be required to observe the permit application review procedure set forth in this program.
- C. Applicants shall disclose as part of the permit process:
1. Any applicable federal, state or local regulatory permit requirements
 2. The status of any contact with those agencies having permit jurisdiction over the proposed project and status of any permits that may have been applied for
- D. Uses which are classified in this master program as special uses may be authorized provided that the applicant demonstrates all of the following:
1. That the proposed use is consistent with the policies, regulations and standards of RCW 90.58.020 and this master program;
 2. That the proposed use will not interfere with the normal public use of public shorelines;
 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 5. That the public interest suffers no substantial detrimental effect.
- E. In the granting of all special use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if special use permits were granted for other developments in the area where similar circumstances exist, the total of the special uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- F. Other uses which are not classified or set forth in the applicable master program may be authorized as special uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for special uses contained in the master program.
- G. Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section. [Ord. 25-14 § 1.01]

26.50.060 Variances.

- A. A development may be granted which is at variance with the specific bulk, dimensional or performance standards established in the SMP where, owing to extraordinary circumstances relating to the physical character or configuration of property, the literal interpretation and strict application of the criteria established in the SMP would cause undue and unnecessary hardship or thwart the policies set forth in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances are present. A variance may be required for a use that does not require a substantial development permit but which may not be approved because it does not comply with the provisions of the SMP.
- B. Review of a variance shall be in accordance with RMC Chapter 26.50.050, Special Use Permits.
- C. Decision Criteria: The Hearing Examiner must find each of the following:

 - 1. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
 - 2. That the hardship described in (1) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
 - 3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
 - 4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
 - 5. That the variance requested is the minimum necessary to afford relief; and
 - 6. That the public interest will suffer no substantial detrimental effect.
 - 7. In the granting of all 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. [Ord. 25-14 § 1.01]

26.50.070 Time requirements for shoreline permits.

- A. The time requirements of this Section shall apply to all substantial development permits and to any development authorized pursuant to a variance or special use permit authorized under the Shoreline Master Program.
- B. No construction pursuant to such permit shall begin or be authorized and no building, grading or other construction permits or use permits shall be issued by the City until 21 days from the date a substantial development permit was filed with the Department of Ecology and the Attorney General, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.

- C. No permits and construction pursuant to a special use permit or variance shall begin or be authorized until 21 days from the date of notification of approval by the Department of Ecology, or until all review proceedings are completed as were initiated within the twenty one (21) days of the date of filing. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130.
- D. Unless a different time period is specified in the shoreline permit as authorized by RCW 90.58.143, construction activities, or a use or activity for which a permit has been granted pursuant to this Master Program, must be commenced within two (2) years of the effective date of a shoreline permit, or the shoreline permit shall terminate and a new permit shall be necessary. However, the administrator may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed with the City before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology. Construction activities or commencement of construction means that construction applications must be submitted, permits must be issued, and foundation inspections must be approved and completed.
- E. A permit authorizing construction shall extend for a term of no more than five (5) years after the effective date of a shoreline permit, unless a longer period has been specified pursuant to RCW 90.58.143 and Subsection F of this Section. If an applicant files a request for an extension prior to expiration of the shoreline permit, the administrator shall review the permit and upon a showing of good cause may authorize a single extension of the shoreline permit for a period of up to one year. Otherwise said permit shall terminate. Notice of the proposed permit extension shall be given to parties of record and the Department of Ecology. To maintain the validity of a shoreline permit, it is the applicant's responsibility to maintain valid construction permits in accordance with adopted Building Codes.
- F. If it is determined that standard time requirements of Subsections D and E should not be applied, the Decision Maker, upon a finding of good cause, may establish shorter time limits, provided that as a part of action on a special use or variance permit the approval of the Department of Ecology shall be required. "Good cause" means that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted.
- G. For purposes of determining the life of a shoreline permit, the effective date of a substantial development permit, shoreline special use permit, or shoreline variance permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods do not include the time during which a use or activity was not actually pursued due to the pendency of appeals or legal actions, or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed.
- H. It is the responsibility of the applicant to inform the Administrator of the pendency of other permit applications filed with agencies other than the City, and of any related administrative or legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the City prior to the expiration date established by the shoreline permit or the provisions of this Section, the expiration of a permit shall be based on the effective date of the shoreline permit.

- I. If the granting of a shoreline permit by the City is appealed to the Shoreline Hearings Board, and the Shoreline Hearings Board has approved the granting of the permit, and an appeal for judicial review of the Shoreline Hearings Board decision is filed, construction authorization may occur subject to the conditions, time periods, and other provisions of RCW 90.58.140(5)(c). [Ord. 25-14 § 1.01]

26.50.080 Land division.

Prior to approval of any land division, such as short subdivisions, preliminary long plats, and boundary line adjustments within shoreline jurisdiction, the City shall document compliance with bulk and dimensional standards as well as policies and regulations of the Shoreline Master Program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities, and future use associated with such lands are consistent with the Shoreline Master Program. A prohibition on individual private docks shall be imposed on all land divisions. [Ord. 25-14 § 1.01]

26.50.090 Construction permit compliance.

For all development within shoreline jurisdiction, the Building Official shall not issue a construction permit for such development until compliance with the Shoreline Master Program has been documented. If a shoreline substantial development permit is required, no permit shall be issued until all comment and appeal periods have expired. Any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit. [Ord. 25-14 § 1.01]

26.50.100 Rulings to state.

Any ruling on an application for a substantial development permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology and the Attorney General by the Administrator. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130. [Ord. 25-14 § 1.01]

26.50.110 Appeals.

Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of receipt of the decision as provided for in RCW 90.58.140(6). [Ord. 25-14 § 1.01]

26.50.120 Rescission of permits.

- A. Any shoreline permit issued under the terms of this Master Program may be rescinded or suspended upon a finding that a permittee has not complied with conditions of the permit.
- B. Such rescission and/or modification of an issued permit shall be initiated by serving written notice of noncompliance on the permittee, which shall be sent by registered or certified mail, return receipt requested, to the address listed on the application or to such other address as the applicant or permittee may have advised the City; or such notice may be served on the applicant or permittee in person or his agent in the same manner as service of summons as provided by law.

- C. Before any such permit can be rescinded, a public hearing shall be held by the Administrator. Notice of the public hearing shall be made in accordance with RMC Chapter 19.40. The decision of the Administrator shall be the final decision of the City on all rescinded applications. A written decision shall be transmitted to the Department of Ecology, the Attorney General's office, the applicant, and such other departments or boards of the City as are affected thereby and the legislative body of the City.
- D. The Department of Ecology may petition the Shoreline Hearings Board for a rescission of the permit if Ecology is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, as provided by RCW 90.58.140(8).

26.50.121 Violations – penalties.

- A. Violation of this Chapter is subject to the procedures and penalties of RMC Chapter 10.02 Violations and Procedures.
- B. In addition to the provisions of RMC Title 10, the City Attorney may bring action pursuant to RCW 90.58 and other applicable statutes including such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the Shorelines of the State within the City's jurisdiction which are in conflict with the provisions and programs of this Master Program or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971 including the cease and desist provisions of WAC 173-27-270.
- C. Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.
- D. In addition to incurring civil liability, any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the master programs, rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: Provided That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars: Provided further:
- E. Any person subject to the regulatory program of this Master Program who violates any provision of this Master Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney shall bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including

monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party. [Ord. 25-14 § 1.01]

26.50.140 Restoration project relocation of OHWM.

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

- A. A shoreline restoration project causes, or would cause, a landward shift in the ordinary high water mark, resulting in the following:
 - 1. Land that had not been regulated under this chapter prior to construction of the restoration project is brought under shoreline jurisdiction; or
 - 2. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the applicable Shoreline Master Program; and
 - 3. Application of Shoreline Master Program regulations would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.
- B. The proposed relief meets all of the following criteria:
 - 1. The proposed relief is the minimum necessary to relieve the hardship.
 - 2. After granting the proposed relief, there is net environmental benefit from the restoration project.
 - 3. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Shoreline Master Program.
 - 4. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.
- C. The application for relief must be submitted to the Department of Ecology for written approval or disapproval. This review must occur during the Ecology's normal review of a shoreline substantial development permit, special use permit, or variance. If no such permit is required, then Ecology shall conduct its review when the local government provides a copy of a complete application and all supporting information necessary to conduct the review.
 - 1. Except as otherwise provided in Subsection D of this section, the Department of Ecology shall provide at least 20-day notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on to their website.
 - 2. The Department of Ecology shall act within 30 calendar days of close of the public notice period, or within 30 days of receipt of the proposal from the local government if additional public notice is not required.
- D. The public notice requirements of Subsection C of this section do not apply if the relevant shoreline restoration project was included in a Shoreline Master Program or shoreline restoration plan as defined in WAC 173-26-201, as follows:
 - 1. The restoration plan has been approved by the Ecology under applicable Shoreline Master Program guidelines; and
 - 2. the shoreline restoration project is specifically identified in the Shoreline Master Program or restoration plan or is located along a shoreline reach identified in the

- Shoreline Master Program or restoration plan as appropriate for granting relief from shoreline regulations; and
3. The Shoreline Master Program or restoration plan includes policies addressing the nature of the relief and why, when, and how it would be applied. [Ord. 25-14 § 1.01]

26.50.150 Shoreline moratorium.

The City Council may adopt moratoria or other interim official controls as necessary and appropriate to implement the provisions of the Shoreline Management Act in accordance with RCW 90.58.590

Chapter 26.60
SENSITIVE AREAS

The following sections of RMC Chapter 26.60 Sensitive Areas apply to Sensitive areas within Shoreline Management Act jurisdiction. [Ord. 25-14 § 1.01]

26.60.010 General purpose and intent.

A. Sensitive areas perform many important biological and physical functions that benefit the city of Richland and its residents. The City shall regulate in the shoreline jurisdiction all uses, activities, and development within, adjacent to, or likely to affect one or more sensitive areas, consistent with the provisions of RMC 26.60, Sensitive Areas.

These functions include, but are not limited to, the following (by type):

1. Wetlands: helping to maintain water quality; storing and conveying stormwater and flood water; recharging ground water; providing important wildlife habitat; and serving as areas for recreation, educational and scientific study, and aesthetic appreciation; and
2. Fish and wildlife habitat areas: maintaining species diversity and genetic diversity of local flora and fauna; providing opportunities for food, cover, nesting, breeding and movement for fish and wildlife; serving as areas for recreation, educational and scientific study and aesthetic appreciation; helping to maintain air and water quality; controlling erosion; and providing neighborhood separation and visual diversity within urban areas.
3. In addition, certain portions of the city of Richland are characterized by geologic hazards that pose a risk to public and private property, to human life and safety and to the natural systems that make up the environment of the city of Richland. These lands are affected by natural processes that make them susceptible to landslides, seismic activity, and/or severe erosion. The city of Richland maintains that protection of sensitive areas and regulation of geologic hazards are necessary to protect the public health, safety, and welfare.

B. This section of the Shoreline Master Program contains standards, guidelines, criteria and requirements intended to identify, analyze, and mitigate probable impacts to the city of Richland's sensitive areas and geologic hazard areas within the Shoreline Jurisdiction and to enhance and restore them when possible. The intent of these regulations, in concert with other Shoreline Master Program provisions, is to achieve no net loss of ecological function. In appropriate circumstances, impacts to sensitive