Department of Ecology
Grant No. G1200048

City of West Richland

Shoreline Master Program

Environment Designations, Policies & Regulations

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FINAL DRAFT for City Council Adoption

September 12, 2014

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List of Abbreviations

BAS –	Best Available Science
BMPs –	Best Management Practices
CAO –	Critical Areas Ordinance
CARA –	Critical Aquifer Recharge Area
City –	City of West Richland
CMZ –	Channel Migration Zone
DAHP –	Washington State Department of Archaeology and Historic Preservation
Ecology –	Washington State Department of Ecology
ESA –	Endangered Species Act
GMA –	Growth Management Act
NFIP –	National Flood Insurance Program
RCW –	Revised Code of Washington
SAC –	Shoreline Ad Hoc Committee for the Shoreline Master Plan Process
SEPA –	State Environmental Policy Act
SMA –	Shoreline Management Act
SMP –	Shoreline Master Program
TAC –	Technical Advisory Committee for the Shoreline Master Plan Process
USGS –	United States Geological Survey
WAC –	Washington Administrative Code
WDFW –	Washington State Department of Fish and Wildlife
WDNR –	Washington State Department of Natural Resources
WRMC –	City of West Richland Municipal Code

Chapter 1: **Introduction**

A. Shoreline Management Act

The State Legislature passed the Washington's Shoreline Management Act (SMA) in 1971 and was adopted by the public through referendum in 1972 *"…to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."*

The SMA has three broad policies:

- **Encourage water-dependent 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…"*
- **Protect shoreline natural resources**: including *"…the land and its vegetation and wildlife, and the water of the state and their aquatic life…"*
- **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 people generally."*

The SMA recognizes that *"shorelines are among the most valuable and fragile"* of the state's resources. The SMA and the City of West Richland (City) recognize and protect private property rights in the City's shoreline jurisdiction, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the SMA is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the SMA establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following four tasks:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the SMA.
2. Preparation of a "Shoreline Master Program" (SMP) to determine the future of the City's shoreline jurisdiction.

3. Development of a permit system to further the goals and policies of both the SMA and its SMP.
4. Development of a Restoration Plan that includes goals, policies, and actions for restoration of impaired shoreline ecological functions.

B. Applicability

All proposed uses and development occurring within the City's shoreline jurisdiction must conform to the SMA (Revised Code of Washington (RCW) 90.58) and the SMP, except when specifically exempt by statute. In addition to the requirements of the SMA, 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 the private property.

C. Purposes of the Shoreline Master Program

The four purposes of the SMP are to:

1. Carry out the responsibilities imposed on the City by the SMA;
2. Promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City;
3. Further, by adoption, the policies of the SMA and the goals of the SMP; and
4. Comply with the SMP Guidelines (Washington Administrative Code (WAC) Chapter 173-26); including a particular focus on regulations and mitigation standards to ensure that development under the SMP will not cause a net loss of ecological functions.

D. Shoreline Master Program Development

The City obtained grant number G1200048 from the Washington State Department of Ecology (Ecology) in 2012 to conduct a comprehensive SMP update. The first step of the update process inventoried the City's shoreline jurisdiction as defined by the state's SMA. The Yakima River and its associated wetlands and floodways comprise the SMA shoreline jurisdiction in the City. In addition, WAC 173-18-070 – *Benton County* establishes the Yakima River as a Shoreline of Statewide Significance within the City.

The *Public Participation Plan* guided public interaction throughout the development of the SMP. The Planning Commission served as the Shoreline Ad Hoc Committee (SAC) to review SMP documents, particularly proposed environment designations, policies, and regulations, and provided feedback in a series of public meetings.

The *Shoreline Inventory and Characterization* described existing biological and physical conditions for the two (2) different shoreline reaches classified in the City (Yakima River – west side of the City and Yakima River – east side of the City). These conditions were then analyzed and characterized to create a baseline from which future development actions in the City's shoreline jurisdiction will be measured. A Technical Advisory Committee (TAC) reviewed and commented on the *Shoreline Inventory and Characterization*.

The public discussed the findings of the *Shoreline Inventory and Characterization* and proposed shoreline environment designations at community meetings. Shoreline environment designations were assigned for all the area under SMA jurisdiction in the City. Then goals, policies, and regulations for each shoreline environment designation, as well as general goals, policies and regulations for all activity in the SMA jurisdiction were developed to maintain the baseline condition. The SAC and the public reviewed these documents.

The SMP Guidelines required that the City demonstrate that its updated SMP yields "no net loss" of ecological functions in the shoreline jurisdiction relative to the baseline through the *Cumulative Impacts Analysis* and the *No Net Loss Report*.

The City developed the *Restoration Plan* to address voluntary, non-regulatory actions the City would take to improve its shoreline jurisdiction above the baseline condition. Ideally, the SMP, in combination with other City and regional efforts, will ultimately produce a net improvement in ecological functions of the shoreline jurisdiction.

E. Shoreline Master Program Basics

The SMP is a planning document that provides goals and policies for the City's shoreline jurisdiction and establishes regulations for development occurring in the City's shoreline jurisdiction.

In order to preserve and enhance the City's shoreline jurisdiction, it is important that all development proposals relating to the shoreline jurisdiction be evaluated in terms of the SMP, and that the City's Shoreline Administrator, as appointed by the Mayor, be consulted. Some developments may be exempt from regulation, while others may need a shoreline substantial development permit, variance, or conditional use permit approval. All proposals must comply with the policies and regulations established by the SMA as expressed through the SMP, regardless of whether a permit is required.

The SMA defines for local jurisdictions the content and goals to be found in the SMPs developed by each community. Within these guidelines, specific regulations are developed that are appropriate to that community. Under the SMA, all shorelines of the state receive a shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment.

The City's shoreline jurisdiction includes segments of streams or rivers within the city limits where the mean annual flow is more than 20 cubic feet per second and shorelands adjacent to these water bodies. Shorelands include lands extending landward for two hundred (200) feet in all directions, as measured on a horizontal plane from the ordinary high water mark (OHWM), floodways, contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters subject to RCW 90.58. Buffers for these associated wetlands and floodplains outside of two hundred (200) feet of the floodway are not included in the City's shoreline jurisdiction. Within the City, the Yakima River, and its associated wetlands and floodways are within SMA shoreline jurisdiction and the Yakima River is a Shoreline of Statewide Significance.

The City has designated its shoreline jurisdiction into four (4) shoreline environments: High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic. SMP Chapter 3: Environment Designations describes these shoreline environments. Figures 9.1 and 9.2 in the SMP Appendix 1: Maps present the maps of the shoreline environments within the jurisdiction of the SMP.

Persons proposing any development, land use, or other projects in the shoreline jurisdiction must consult with the City's Shoreline Administrator to determine how the SMP addresses their proposal. The City's Shoreline Administrator will determine if a proposal is exempt from a shoreline substantial development permit (i.e. qualifies for a shoreline letter of exemption) or requires a shoreline permit, and will provide information on the permit application process.

Requests for shoreline substantial development permits, variances, and conditional use permits require review and recommendation by the City's Shoreline Administrator, with a final decision according to City procedures. Requests for shoreline variances and conditional use permits also require final approval by Ecology. SMP Chapter 6: Administration provides a description of exempt projects, shoreline permit application procedures, and criteria for evaluation.

F. Organization of the Shoreline Master Program

The SMP is comprised of seven Chapters and two Appendices:

Chapter 1: *Introduction* provides general background information on the state SMA; the development of the SMP in the City; and how the SMP is used.

Chapter 2: *Master Program Elements* lists the general goals and objectives of the elements that make up the SMP.

Chapter 3: *Environment Designations* defines the shoreline environment designations within the City's shoreline jurisdiction. This Chapter details the policies and regulations specific to the four (4) designated shoreline environments (High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic).

Chapter 4: *General Regulations* set forth the general policies and regulations that apply to uses, developments, and activities in the shoreline jurisdiction of the City. The policies and regulations cover the following: Universally Applicable Policies and Regulations, Archaeological and Historic Resources, Critical Areas, Environmental Impacts, Flood Hazard Reduction, Public Access, Restoration, Shoreline Modifications, Shorelines of Statewide Significance, Vegetation Conservation (Clearing and Grading), and Water Quality.

Chapter 5: *Use Specific Regulations* sets forth policies and regulations governing specific categories of uses and activities found in the shoreline jurisdiction. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities – Boat Launches and Docks, Civic, Commercial, Forest Practices, Industry, In-Stream Structures, Mining, Parking, Recreational Development, Residential Development, Signs, Transportation Facilities, and Primary and Accessory Utilities.

Chapter 6: *Administration* provides the system by which the SMP will be administered, and information on the application process and criteria used to evaluate requests for shoreline substantial development permits, variances, and conditional use permits.

Chapter 7: *Definitions* defines terms used in the SMP.

Appendix 1: *Maps* contains all of the maps prepared as part of the SMP update.

Appendix 2: *Critical Area Provisions in the Shoreline Jurisdiction* sets forth the critical area regulations that are applicable in the City's shoreline jurisdiction.

G. Shoreline Management Act and Growth Management Act

The Growth Management Act (GMA) requires the City to include the goals and policies of the adopted SMP in the City's Comprehensive Plan. The SMP's goals and policies are an element of the City's Comprehensive Plan and the SMP's regulations are a part of the City's

development regulations (RCW 36.70A.480). Therefore, the SMP's goals and policies, adopted pursuant to the SMA, are included in the City's Comprehensive Plan as required. Future amendments to this element of the Comprehensive Plan must follow the amendment procedures of the SMA.

H. Relationship of the Shoreline Master Program to Other Plans

The permitting process for a development or use in the shoreline jurisdiction does not exempt an applicant from complying with any other local, state, regional, or federal statutes or regulations, which may also be applicable to such development or use. In the City, applicants must consider other plans and policy documents that include, but are not limited to, the City of West Richland Municipal Code (WRMC), Comprehensive Plan, and adopted stormwater design manual.

Proposals must also comply with the development regulations used by the City to implement its plans, such as subdivision, zoning and critical areas ordinances, as well as regulations relating to building construction and safety.

Protection and restoration of critical areas within the shoreline jurisdiction was of primary consideration during the preparation of the SMP as was integrating the plan with the City's existing Comprehensive Plan and development regulations.

It was the express intent of the City to achieve consistency between the SMP and other City plans, policies, and regulations. If there are inconsistencies between the SMP and other City plans, policies, and regulations, the regulation that affords greater protection to the City's shoreline jurisdiction shall prevail.

I. Title

This document shall be known and may be cited as the *City of West Richland's Shoreline Master Program* or SMP.

Chapter 2: **Master Program Elements**

A. Goals and Objectives

Per WAC 173-26-186(3), all relevant policy goals must be addressed in the planning policies of the SMP. This Section contains goals and objectives for the City's shoreline jurisdiction. Goals express the ultimate aim of the City's citizens in their shoreline jurisdiction. An objective identifies a measurable step that moves toward achieving a long-term goal. Goals and objectives provide a framework upon which the more detailed SMP shoreline environments, policies, regulations, and administrative procedures are based in subsequent Chapters.

B. Economic Development Element

1. Goal

Provide an area for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of the Shorelines of the State.

Promote economic growth by encouraging economic activities that will result in minimum disruption to the quality of the shoreline environment. Water-dependent, water-oriented, and water-enjoyment uses shall be encouraged within the City as well as water-enjoyment uses, such as recreational development and/or mixed-use developments that provide for water-enjoyment.

2. Objectives

a. Encourage development in the shoreline jurisdiction that has a positive effect upon community economic and social activities and which results in no net loss of ecological functions and results in mitigation of adverse impacts to other resources and values in the shoreline jurisdiction.

b. Give preference to new water-dependent, water-related, and water-enjoyment uses in economic development.

C. Public Access Element

1. Goal

Provide public access to publicly owned properties in the shoreline jurisdiction.

Provide for access to publicly owned properties in the shoreline jurisdiction, except where deemed inappropriate due to safety hazards, inherent security problems, environmental impacts, conflicts with adjacent uses, or concerns that public access may reduce the effectiveness of flood hazard protections.

2. Objectives

a. Seek to increase the amount and diversity of public access to shoreline jurisdiction properties consistent with the natural character of the shoreline jurisdiction, property rights, public rights under the Public Trust Doctrine, and public safety.

b. Increase public access to the shoreline jurisdiction by developing and implementing parks, recreation, and trails plans.

c. Require public access as part of public shoreline jurisdiction development where appropriate.

d. Require and/or encourage public access as part of private shoreline jurisdiction development in accordance with the City's public access plans for its shoreline jurisdiction, where appropriate.

e. Protect and enhance visual and physical access to the City's shoreline jurisdiction.

f. Assure that public access improvements do not result in a net loss of the ecological functions in the shoreline jurisdiction.

D. Recreation Element

1. Goal

Preserve and expand recreational opportunities, including but not limited to parks and recreational areas.

Develop public and private recreation opportunities that are compatible with adjacent uses without adversely affecting the ecological functions and values of the City's shoreline jurisdiction.

2. Objectives

a. Encourage cooperation among public agencies, non-profit groups, and private landowners and developers to increase and diversify recreational opportunities.

b. Ensure recreation facilities in the shoreline jurisdiction are developed as necessary to serve projected City growth in accordance with adopted levels of service standards established by the City's Comprehensive Plan.

c. Assure that the recreational facilities are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and that no net loss of ecological functions or ecosystem-wide processes in the shoreline jurisdiction results.

d. Assure that recreational development in the shoreline jurisdiction is given priority and is primarily related to access to, enjoyment, and use of the water and shorelines.

E. Circulation Element

1. Goal

Provide for multi-modal circulation opportunities by planning for the general location and extent of existing and proposed major thoroughfares, transportation routes, and other public utilities and facilities, all consistent with the Shoreline Use Element.

Provide safe and adequate vehicular circulation systems to the shoreline jurisdiction where routes will have the least possible adverse effect on unique or fragile features and existing ecological systems in the shoreline jurisdiction, while contributing to the functional and visual enhancement of the system.

2. Objectives

a. Encourage multiple modes of transportation.

b. Promote non-motorized travel, public access opportunities, and environmental protection.

c. Locate new or expanded road corridors for motorized vehicles outside of the shoreline jurisdiction unless there is no reasonably feasible alternative or location.

d. Minimize the environmental and visual impacts of parking facilities and allow only as necessary to support an authorized use.

F. Shoreline Use Element

1. Goal

Identify areas associated with the general distribution, location, and extent of the use in the shoreline jurisdiction and adjacent land areas for housing, business, industry, transportation, recreation, education, and other categories of public and private uses of the land.

Ensure that land use patterns will locate activity and development in areas of the City's shoreline jurisdiction that will be compatible with adjacent uses and will be sensitive to existing shoreline environments, habitat, and ecological systems.

2. Objectives

a. Give preference in the City's shoreline jurisdiction to water-oriented and single-family residential development, consistent with the control of pollution and prevention of damage to the natural environment.

b. Encourage shoreline uses and development that enhance and/or increase public access to the City's shoreline jurisdiction or provide significant public benefit.

c. Protect current agricultural activities occurring on agricultural land.

d. Provide for new agricultural uses that are located and designed to assure no net loss of ecological functions and do not have a significant adverse impact on other shoreline jurisdiction resources and values.

e. Locate new utilities outside the shoreline jurisdiction unless water crossings are unavoidable or utilities are required for authorized shoreline uses consistent with the SMP and that no net loss of shoreline ecological functions or ecosystem-wide processes results.

f. Provide for commercial development uses that are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and that no net loss of shoreline ecological functions or ecosystem-wide processes results.

G. Conservation Element

1. Goal

Preserve natural resources, including but not limited to scenic vistas, water quality, aesthetics, and areas for fisheries and wildlife protection.

Utilizing the best available information, create development regulations, design standards, and best management practices (BMPs) that will ensure no net loss as well as the long-term enhancement of unique features, natural resources, and fish and wildlife habitat in the shoreline jurisdiction.

2. Objectives

a. Provide for no net loss of ecological function in the shoreline jurisdiction.

b. Ensure restoration and enhancement plans are consistent with and prioritized based on adopted watershed and basin plans.

H. Historic, Cultural, Scientific, and Educational Element

1. Goal

Provide for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

Ensure the recognition, protection, preservation, and restoration of areas in the shoreline jurisdiction and create a unique "sense of place" for public facilities and recreation areas in the City's shoreline jurisdiction.

2. Objectives

a. Protect sites in collaboration with appropriate tribal, state, federal, and local governments. Encourage cooperation among public and private parties in the identification, protection, and management of cultural resources.

b. When and/or where appropriate, make access to such sites available to parties of interest. Design and manage access to such sites in a manner that gives maximum protection to the resource.

c. Provide opportunities for education related to archaeological, historical and cultural features when and/or where appropriate and incorporate into public and private management efforts, programs, and development.

I. Flood Hazard Prevention Element

1. Goal

Recognize statewide interests over individual interests in the prevention and minimization of flood damages.

Protect the City from losses and damage created by flooding.

2. Objectives

a. Discourage land use practices that may impede the flow of floodwater or cause danger to life or property. Mitigate the loss of floodplain storage capacity to avoid greater impact of flooding downstream.

b. Give preference to nonstructural flood hazard reduction measures over structural measures where feasible.

c. Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.

Chapter 3: **Environment Designations**

A. Summary

The intent of a shoreline environment designation is to preserve and enhance ecological functions in the shoreline jurisdiction and to encourage development that will improve the present or desired future character of the City's shoreline jurisdiction. The SMP Guidelines (WAC 173-26-211(2)(a)) require that the City classify and map the area within its shoreline jurisdiction into environment designations based on the following four (4) criteria:

1. **Existing land use patterns** – What land uses have developed in the City's shoreline jurisdiction to date, as documented in the *Shoreline Inventory and Characterization* and the SMP map folio.
2. **Biological and physical character of the City's shoreline jurisdiction** – The range of ecological characteristics and functions identified in the City's shoreline jurisdiction as documented in the *Shoreline Inventory and Characterization.*
3. **The goals and aspirations of the City as expressed through its Comprehensive Plan** – The Comprehensive Plan's goals and policies, land use designations, its various elements, as well as its development code and zoning code, the Parks and Recreation Plan, and so forth.
4. **Specific criteria for each environment designation found in WAC 173-26-211(5)** – For the City these environment designations include High Intensity, Shoreline Residential, Urban Conservancy, and Aquatic. The City may establish different environment designations through an amendment to the SMP, provided they are consistent with the purposes and policies of the SMP Guidelines and compatible with the other criteria.

Based on the four (4) criteria found in the SMP Guidelines, the SMP establishes four (4) shoreline environments for the City. They include:

1. **High Intensity** is appropriate for areas of high intensity water-oriented commercial, transportation, and industrial development.
2. **Shoreline Residential** is intended to accommodate residential development, and appropriate public access and recreational development consistent with other elements of the SMP.

3. **Urban Conservancy** is a designation designed to maintain and develop water-oriented and non-water-oriented recreational and low intensity residential development while protecting and restoring the ecological functions of open space, floodway, floodplain, and other sensitive lands where they exist within the City.
4. **Aquatic** is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark.

These shoreline environments are illustrated in Figures 9.1 and 9.2 located in SMP Appendix 1: Maps, and described below. Each shoreline environment description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards specific to that shoreline environment. Development standards in the shoreline jurisdiction are summarized in Table 3: Minimum Shoreline Setbacks from the Ordinary High Water Mark and Table 4: Maximum Shoreline Heights in SMP Chapter 5: Use Specific Regulations.

B. Shoreline Areas Not Mapped or Designated

Any undesignated areas of the City's shoreline jurisdiction in the City are assigned automatically an Urban Conservancy shoreline environment designation. This includes any areas annexed into the City that would fall within the City's shoreline jurisdiction. Currently no part of the City's Urban Growth Area (UGA) falls within the shoreline jurisdiction of the SMA.

C. Official Shoreline Map

The City's Community and Economic Development Department shall keep the Official Shoreline Map. Additionally, a map of the shoreline environment designations is included as Figures 9.1 and 9.2 in SMP Appendix 1: Maps. In the event that there is an error in the preparation of the shoreline environment designation maps, the City will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands.

The purpose of the shoreline environment designation maps is to identify the shoreline designations. They are based upon the best mapping data available at the time of this update. As such, these maps may not necessarily identify or depict the lateral extent of the City's shoreline jurisdiction or all associated wetlands. The extent of the City's shoreline jurisdiction, as defined in SMP Chapter 1: Introduction, Section E, shall be determined on a case-by-case basis based upon the location of the ordinary high water mark, floodway, floodplain, and presence of associated wetlands.

D. Interpretation of Environment Designation Boundaries

The following is applicable to the interpretation of environment designation boundaries:

1. Shoreline Environment Designation Boundaries shall be identified primarily by Figures 9.1 and 9.2 in SMP Appendix 1: Maps and secondarily by the written descriptions provided in SMP Chapter 3: Environment Designations, Sections E.1 – E.4 below.
2. Shoreline Environment Designation Boundaries shall follow parcel, tract, and/or section lines as applicable.
3. Shoreline Environment Designation Boundaries, which follow roads, shall be considered to follow centerlines.
4. All areas in the shoreline jurisdiction waterward of the ordinary high water mark shall be designated Aquatic.
5. Upland shoreline designations shall apply to the City's entire shoreline jurisdiction landward of the ordinary high water mark.

E. Designations and Policies

1. High Intensity Environment

a. Purpose

The purpose of the High Intensity shoreline environment designation is to provide for high intensity water-oriented commercial and transportation uses while protecting existing ecological functions and restoring ecological functions in areas in the shoreline jurisdiction that have been degraded. Where water-dependent uses are not possible within this designation, because the Yakima River is unnavigable, or where this designation is used as a parallel designation that is not adjacent to the ordinary high water mark, the City allows for non-water-related uses within this designation to meet the requirements of the GMA.

b. Designation Criteria

A High Intensity shoreline environment designation is assigned to areas in the shoreline jurisdiction that currently support high intensity uses related to commerce or transportation, or are suitable for high intensity water-oriented uses. Areas in the shoreline jurisdiction assigned this designation should have the following characteristics:

1. Can support high-intensity uses without degradation to existing shoreline function;

2. Designated by the City's Comprehensive Plan and zoning for high intensity, commercial, industry, multi-family, or mixed-use development; and
3. Have few biophysical limitations to development such as floodways, floodplains, steep slopes, or landslide hazard areas.

c. Designated Areas

Description

1. The High Intensity shoreline environment designation is assigned to those areas in the shoreline jurisdiction generally north of the centerline of the Van Giesen Bridge, south of the centerline of Fallon Drive, and west of the centerline of Butte Court.

d. Management Policies

1. Promote priority uses on sites with physical access to the City's shoreline jurisdiction in the following order of preference:
   a. Water-dependent
   b. Water-related
   c. Water-enjoyment
2. Allow the development of new non-water-oriented uses on sites where there is no direct physical access to the City's shoreline jurisdiction or where the applicant can demonstrate that the use will not conflict with or limit opportunities for water-oriented uses.
3. Encourage utilization of existing urban areas in the shoreline jurisdiction before expansion of intensive development.
4. Design new development in shoreline jurisdiction to result in no net loss of ecological functions in the shoreline jurisdiction.
5. Require visual and physical access where feasible with physical access prioritized over visual access.
6. Require environmental cleanup and restoration of the City's shoreline jurisdiction comply with relevant state and federal laws.
7. Make access, utilities, and public services available and adequate to serve existing needs and/or planned future development.

2. Shoreline Residential Environment

a. Purpose

The purpose of the Shoreline Residential shoreline environment designation is to accommodate residential development that is consistent with the SMP. An additional purpose is to provide appropriate public access and recreational development.

b. Designation Criteria

The Shoreline Residential shoreline environment is assigned to areas of the City's shoreline jurisdiction that are predominantly single-family or multi-family residential development or are planned and platted for residential development. These areas contain the following characteristics:

1. They contain or are proposed primarily for residential development in the Comprehensive Plan and zoning code; and
2. They do not contain significant environmental hazards or sensitive areas.

c. Designated Areas

Description

The Shoreline Residential shoreline environment designation is assigned to those areas in the shoreline jurisdiction generally south of the centerline of the Van Giesen Bridge and Area 3b on Figure 9.2 in SMP Appendix 1: Maps.

d. Management Policies

1. Prefer residential activities to other land and resource consumptive development or uses.
2. Allow limited non-residential development, such as parks and home occupation businesses, provided they are consistent with the residential character.
3. Limit commercial development to water-oriented uses.
4. Preserve ecological functions by establishing development standards for density or minimum frontage width, setbacks, shoreline stabilization, critical area protection, and water quality protection to assure no net loss of ecological functions in the shoreline jurisdiction. These development standards should account for environmental limitations and sensitivity of the City's shoreline jurisdiction, the level of infrastructure and services available, and other comprehensive planning considerations.

5. Require that new development preserve and enhance native vegetation and use environmentally friendly landscaping practices in the shoreline jurisdiction, and existing development should be encouraged to do likewise. Consider incentives, information, and other assistance.
6. Provide public access and joint use for community recreational facilities, where feasible and applicable for multi-family developments, residential developments containing four (4) or more lots, and recreational developments.
7. Ensure access, utilities, and public services are available and adequate to serve existing needs and and/or planned future development.
8. Reserve space in the shoreline jurisdiction for shoreline preferred uses.

3. Urban Conservancy Environment

a. Purpose

The Urban Conservancy shoreline environment designation is intended to provide for ecological protection and rehabilitation in relatively undeveloped areas in the shoreline jurisdiction, while allowing agricultural use, water-oriented and non-water-oriented recreational development, low intensity residential development, and limited development suitable to lands characterized by ecological and flood hazard constraints.

b. Designation Criteria

The Urban Conservancy shoreline environment designation is assigned to areas in the shoreline jurisdiction that:

1. Are appropriate and planned for low intensity agricultural, recreational, and residential development that is compatible with maintaining or restoring the ecological functions of the area in the shoreline jurisdiction and that are not generally suitable for water-dependent uses.
2. Are suitable for water-related or water-enjoyment uses;
3. Possess severe development limitations, due to the presence of critical environmental features including:
    a. Erosion hazard areas;
    b. Wetlands; and/or
    c. Flood hazard areas;
4. Have the potential for development that is compatible with ecological restoration;

5. Retain important ecological functions, even though partially developed; or
6. Are newly annexed or undesignated areas.

c. Designated Areas

Description

The Urban Conservancy shoreline environment designation is assigned to all those areas in the shoreline jurisdiction landward of the ordinary high water mark along the Yakima River that are not assigned to the High Intensity or Shoreline Residential shoreline environment designations.

d. Management Policies

1. Assign uses that preserve the natural character of the area in the shoreline jurisdiction, promote preservation of open space, floodway, floodplain, or critical areas directly, or over the long-term as the primary allowed uses. Allow uses that result in restoration of ecological functions if the use is otherwise compatible with the purpose of the environment and the setting.
2. Implement public access and public recreation objectives whenever feasible and significant ecological impacts can be mitigated.
3. Give preferred water-oriented uses priority over non-water oriented uses. Water-dependent recreational development should be given highest priority.
4. Ensure that standards for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the designation for new development does not result in a net loss of ecological functions or degrade other values in the shoreline jurisdiction.
5. Allow agricultural practices, when consistent with provisions of this Chapter.
6. Balance preservation of ecological functions with public access, recreation, and low intensity residential objectives and give preservation priority over development objectives whenever a conflict exists.

4. Aquatic Environment

a. Purpose

The purpose of the Aquatic shoreline environment designation is to protect, restore, and manage the unique characteristics and resources of the areas in the shoreline jurisdiction waterward of the ordinary high water mark.

b. Designation Criteria

The Aquatic shoreline environment designation is assigned to all lands waterward of the ordinary high water mark in the City's shoreline jurisdiction.

c. Designated Areas

Description

All lands waterward of the ordinary high water mark in the Yakima River shall be assigned an Aquatic shoreline environment designation.

d. Management Policies

1. Allow new over-water structures for water-dependent uses, public access, or ecological restoration.
2. Limit the size of new over-water structures to the minimum necessary to support the structure's intended use.
3. Encourage multiple uses of over-water facilities to reduce the impacts of development and increase effective use of water resources in the shoreline jurisdiction.
4. Minimize interference with surface navigation, consider impacts to public views, and allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration in the location and design of all developments and uses.
5. Design and manage shoreline uses and modifications to prevent degradation of water quality and alteration of natural hydrographic conditions.
6. Prohibit uses that adversely impact the ecological functions of critical freshwater habitats except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
7. Reserve space in the shoreline jurisdiction for shoreline preferred uses, while considering upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing critical habitats, aesthetics, public access and views.

F. Regulations

1. Applicability

This Section is applicable to all shoreline environment designations.

2. Shoreline Use

a. Permitted, conditional, and prohibited uses for all shoreline environment designations are listed in SMP Chapter 5: Use Specific Regulations, Section B - Table 2: Permitted, Conditional, and Prohibited Uses.

b. All development and uses in the shoreline jurisdiction shall comply with SMP Chapter 4: General Regulations and SMP Chapter 5: Use Specific Regulations as applicable.

c. Permitted uses shall result in no net loss of ecological functions and shall not degrade other values in the shoreline jurisdiction.

d. Prohibited Uses: Any non-classified use will be processed as a shoreline conditional use permit, unless specifically prohibited in SMP Chapter 5: Use Specific Regulations, Section B - Table 2: Permitted, Conditional, and Prohibited Uses.

3. Development Standards

a. Development standards for all shoreline environment designations are summarized in Table 3: Minimum Shoreline Setbacks from the Ordinary High Water Mark and Table 4: Maximum Shoreline Heights in SMP Chapter 5: Use Specific Regulations.

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Chapter 4: **General Regulations**

A. Introduction

Based on the general goals and objectives established for the SMP, the following policies and regulations apply to all uses, developments, and activities in the City's shoreline jurisdiction.

General policies and regulations are broken into different topic headings and arranged alphabetically. Each topic begins with a description of its purpose, followed by general policy statements and specific regulations. The intent of these provisions is to be inclusive, making them applicable to all shoreline environments, as well as particular shoreline uses and activities.

The regulations of this Chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more substantive protection to the City's shoreline jurisdiction shall apply. These interlocking development regulations are intended to make development in the shoreline jurisdiction responsive to specific design needs and opportunities along the City's shoreline jurisdiction, protect the public's interest in recreational and aesthetic values of the City's shoreline jurisdiction, and assure, at a minimum, no net loss of ecological functions necessary to sustain natural resources in the shoreline jurisdiction.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the governing principles of the SMP Guidelines as established in WAC 173-26-186.

B. Policies and Regulations

1. Universally Applicable Policies and Regulations

a. Purpose

Provide general provisions to describe the application of the SMP.

b. Policies

1. Keep records of all project review actions within the City's shoreline jurisdiction, including shoreline permits and letters of exemption.
2. Involve affected federal, state, and tribal governments in the review process of shoreline applications.

3. Pursue planning policies through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations on the regulation of private property. Statutory limitations include those that are contained in RCW Chapter 82.02 and RCW 43.21C.060.

4. Periodically review conditions in the shoreline jurisdiction to determine whether other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, identify and protect significant cultural resources, and enhance commercial, residential, and recreational development on the City's shoreline jurisdiction. Specific issues to address in such evaluations include, but are not limited to the following:

    a. Water quality;

    b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that support more desirable ecological and recreational conditions),

    c. Changing visual character as a result of new development, including additions, and individual vegetation conservation practices (both in the water and in upland areas in the shoreline jurisdiction),

    d. Shoreline stabilization and modifications, and

    e. Significant cultural resources resulting from research, inventories, discoveries, or new information.

c. Regulations

1. All proposed shoreline uses and development within the City's shoreline jurisdiction, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of the SMP.

2. The "policies" listed in the SMP are intended to provide broad guidance and direction for the "regulations" applied by the City's Shoreline Administrator. The policies, taken together, constitute the Shoreline Element of the City's Comprehensive Plan.

3. If provisions within the SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the SMA, as determined by the City's Shoreline Administrator, shall apply unless specifically stated.

4. Shoreline uses, modifications, and conditions listed as "prohibited" shall not be eligible for consideration as a shoreline variance or conditional use permit.

2. Archaeological and Historic Resources

a. Purpose

Due to the limited and irreplaceable nature of archaeological, historic, and cultural resources within the City's shoreline jurisdiction, the purpose of this Section is to prevent the destruction of or damage to sites containing these resources. Historical and cultural research activities include the creation of sites, structures, and/or facilities for studying historical and cultural aspects.

b. Policies

1. Prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Native American tribes and the Washington State Department of Archaeology and Historic Preservation (DAHP) because of the limited and irreplaceable nature of archaeological and historic resources,
2. Ensure that new development is designed to avoid damaging significant archaeological and historic resources and enhance and/or be compatible with such resources.

c. Regulations

1. Developers and property owners shall immediately stop work and notify the City, the DAHP, and affected Native American tribes if archaeological resources are uncovered during excavation.
2. A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas in the shoreline jurisdiction documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the shoreline permit.

3. Critical Areas

a. Purpose

SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction regulates critical areas such as wetlands, critical fish and wildlife habitat areas, Critical Aquifer Recharge Areas (CARAs), landslide and erosion hazard areas, flood hazard areas, and seismic hazard areas in the City's shoreline jurisdiction.

b. Policies

1. Ensure that the level of protection for critical areas in the shoreline jurisdiction satisfy the no net loss of ecological functions requirement.
2. Include critical areas objectives in the protection and restoration of degraded ecological functions and ecosystem-wide processes. Use regulatory provisions to protect existing ecological functions and ecosystem-wide processes.
3. Promote human uses and values in critical area provisions, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

c. Regulations

1. If there is a conflict between the provisions of SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction and other parts of the SMP, the provisions most protective of the City's shoreline jurisdiction shall apply, as determined by the City's Shoreline Administrator.

4. Environmental Impacts

a. Purpose

Assure no net loss of ecological functions in the shoreline jurisdiction by requiring mitigation for impacts to functions in the shoreline jurisdiction. These provisions apply throughout the City shoreline jurisdiction.

b. Policies

1. Avoid or mitigate impacts to the City's shoreline jurisdiction to ensure the standards of no net loss to function in the shoreline jurisdiction are met.

c. Regulations

1. The environmental impacts of development proposals shall be analyzed and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the SMP and other applicable regulations. When applicable, development shall meet the requirements of the State Environmental Policy Act of 1971 (SEPA), as amended.
2. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority:
    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 environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

3. In determining appropriate mitigation measures applicable to development in the shoreline jurisdiction, lower priority measures should be applied only where higher priority measures are determined to be infeasible or inapplicable.

4. Mitigation shall not be required that exceeds what is necessary to assure the development will result in no net loss of ecological functions in the shoreline jurisdiction.

5. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the Yakima River watershed that addresses limiting factors or other identified critical needs for resource conservation in the shoreline jurisdiction based on watershed plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

6. Mitigation efforts shall be consistent with the City's *Restoration Plan*, where applicable.

5. Flood Hazard Reduction

a. Purpose

The purpose of flood hazard reduction measures are to provide structural stabilization of the City's shoreline jurisdiction, such as dikes or levees, specifically utilized to address flooding within the City.

b. Policies

1. Allow structural flood hazard reduction measures as a conditional use in all shoreline environments as noted in SMP Chapter 4: General Regulations, Section B.8 - Table 1: Shoreline Modifications.
2. Manage flood protection through comprehensive planning, and the City's stormwater management program and flood hazard regulations.
3. Ensure that new development in areas in the shoreline jurisdiction prone to periodic flooding complies with the City's Flood Damage Prevention standards (WRMC Chapter 18.16 - Flood Damage Prevention (2006)) in an effort to minimize health hazards and property damage due to flooding, as well as other applicable City development standards.
4. Give preference to nonstructural flood hazard reduction measures over structural measures, where feasible.
5. Assure that flood hazard reduction measures result in no net loss of ecological functions.
6. Plan for and facilitate returning river and stream corridors to more natural hydrological conditions.
7. Consider removal or relocation of structures in flood-prone areas in the shoreline jurisdiction when evaluating alternate flood control measures.
8. Plan for removal of artificial restrictions to natural channel migration, restoration of off channel hydrological connections, and return river processes to a more natural state where feasible and appropriate.
9. Integrate public access where possible into publicly financed flood control and management facilities.
10. Limit development and structural flood hazard reduction measures within the CMZ that would result in interference with the process of channel migration.

c. Regulations

1. All proposed structural flood hazard reduction projects shall be consistent with WRMC Chapter 18.16 - Flood Damage Prevention (2006) and SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction.
2. Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with WRMC Chapter 18.16 - Flood Damage Prevention (2006). New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be

reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the CMZ or floodway.

3. Normal maintenance and repair of existing flood hazard reduction structures shall be allowed pursuant to WAC 173-27-040(2)(b).
4. Modification of existing structural flood hazard measures shall be allowed where it can be demonstrated by engineering analysis that the existing structure does not provide an adequate level of protection for the surrounding lands or that the existing structure does not meet appropriate engineering design standards for stability.
5. New flood hazard protection and/or reduction structures shall be designed to ensure no net loss of ecological functions and values.
6. New structural flood hazard reduction measures in the City's shoreline jurisdiction shall be allowed only when:
    a. It can be demonstrated to be necessary, and non-structural methods are infeasible and mitigation is accomplished;
    b. Measures are located landward of associated wetlands and buffer areas unless a geotechnical analysis documents that no alternative exists; and
    c. Appropriate vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).
7. New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated vegetation areas, except in the case of water-dependent uses, public access, flood protection, other specific public purposes, or actions that increase ecological functions, such as wetland restoration.
8. The need for and analysis of feasible alternatives to structural improvements shall be documented through a geotechnical analysis.
9. New structural public flood hazard reduction measures, such as dikes and levees, shall allow, dedicate, and improve public access unless public access improvements would cause:
    a. Unavoidable health or safety hazards to the public;
    b. Inherent and unavoidable security problems;
    c. Unacceptable and immitigable significant ecological impacts;
    d. Unavoidable conflict with the proposed use; or

e. A cost that is disproportionate and unreasonable to the total long-term cost of the development.

10. The removal of gravel for flood management purposes shall be consistent with WRMC Chapter 18.16 - Flood Damage Prevention (2006) and with this Chapter and allowed only after a biological and geomorphologic study shows that:

    a. Extraction has a long-term benefit to flood hazard reduction;

    b. Does not result in a net loss of ecological functions; and

    c. It is part of a comprehensive flood management solution.

11. New development within the CMZ or floodway shall be limited to the following:

    a. Actions that protect or restore the ecosystem-wide processes or ecological functions;

    b. Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur;

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

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

    e. Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes;

    f. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions;

    g. Development in the City, where existing structures prevent active channel movement and flooding; or

    h. Measures to reduce erosion in the shoreline jurisdiction, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in

natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

6. Public Access

a. Purpose

Public access includes the ability of the public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water from adjacent locations. Public access is an important element of the SMA. Standards for the dedication and improvement of public access are discussed in this Section.

b. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
2. Protect the rights of navigation and space necessary for water-dependent uses.
3. Protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, consistent with the overall best interest of the state and the people generally, to the greatest extent feasible.
4. Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.
5. Balance the level of public access with the degree of uniqueness or fragility of the City's shoreline jurisdiction. Prefer physical access to the City's shoreline jurisdiction over visual access.
6. Prohibit public access to the shoreline jurisdiction where there is no right to enter upon or cross private property, except where there are dedicated easements.
7. Public access planning should include a plan for an integrated public access system in the shoreline jurisdiction that:
    a. Addresses public access on public lands;
    b. Is consistent with natural character in the shoreline jurisdiction and public safety;
    c. Identifies public rights under the Public Trust Doctrine and specific public needs and opportunities to provide public access;

d. Integrates other relevant comprehensive plan elements, especially the Transportation and the Parks and Recreation Plans;

e. Integrates public access trails in the shoreline jurisdiction with other existing and planned regional trails where feasible to provide non-motorized access and community connections;

f. Prioritizes sites in terms of short- and long-term acquisition and development. Make purchases or acquire easements on sites for public use;

g. Provides for a range of users including pedestrians, bicyclists, and people with disabilities to the greatest extent feasible;

h. Complies with all relevant constitutional and other legal limitations that protect private property rights; and

i. Results in public access requirements for shoreline permits, recommended projects, and/or actions to be taken to develop access to the shoreline jurisdiction on public property.

8. Ensure that the existing and proposed public access and recreational facilities results in no net loss of ecological function.

9. Design public access to provide for public safety and to minimize potential impacts to private property and individual privacy.

10. Require public access provisions for all development and uses in the shoreline jurisdiction, except for a single-family residence or residential projects containing four (4) or less dwelling units unless such development is part of an identified trail plan.

11. Provide auxiliary facilities for public access, such as parking and sanitation facilities, when appropriate. Locate auxiliary facilities outside of the City's shoreline jurisdiction where feasible or near the outer edge of the City's shoreline jurisdiction if possible.

12. Address upland concerns, such as the location and design of parking and auxiliary facilities and active play areas, as well as the development of in-water and nearshore structures, such as non-motorized boat launches and docks.

13. As part of its update process for the Parks and Recreation Plan, the City shall plan for an integrated public access system in the shoreline jurisdiction.

    a. Where public access planning as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved

through alternate means, such as focusing public access at the most desirable locations, the City shall institute provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

c. Regulations

1. Development by public entities in the shoreline jurisdiction, including the City, port districts, state agencies, and public utility districts shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the environment in the shoreline jurisdiction.
2. Public access shall be required to the extent allowed by law for all water-enjoyment, water-related, and non-water-dependent developments and for the subdivision of land into more than four (4) parcels <u>except</u> when any of the following conditions are present:
   a) The City public access planning process as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved through alternate means;
   b) An individual single-family residence that is not part of a development planned for more than four (4) parcels;
   c) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
   d) Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
   e) The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development or other constitutional or legal limitations preclude public access;
   f) Unacceptable environmental harm will result from the public access which cannot be mitigated; or
   g) Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur which cannot be mitigated.
3. To meet any of the conditions in Regulation 3 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

a) Regulating access by such means as limiting hours of use to daylight hours;

b) Separating uses and activities, with such means as fences, terracing, hedges, and landscaping;

c) Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system; and

d) Sharing the cost of providing and maintaining public access between public and private entities.

4. Projects that meet the exception criteria in Regulations 3 and 4 above shall either build or make a proportional contribution to off-site public access facilities or improvements.

5. Non-water-oriented recreational developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the City's shoreline jurisdiction. In providing visual access to the water and the City's shoreline jurisdiction, natural vegetation shall not be excessively removed either by clearing or by topping.

6. Public access improvements shall not result in a net loss of ecological functions in the shoreline jurisdiction.

7. Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.

8. Public access sites shall be made barrier free for the physically disabled where feasible.

9. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

10. Public access easements and permit conditions shall be recorded as a separate document or on the face of a plat or short plat. Recording with the Benton County Recorder's Office shall occur at the time of permit approval.

11. The applicant shall construct, install, and maintain approved signs that indicate the public's right of access and hours of access in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.

12. Where public access is to be provided by a trail, the following requirements shall apply:

a) The trail shall be no greater than ten (10) feet in surface width, and in addition may include one (1) foot gravel shoulders. Not including landscaping, no more than eight (8) feet of improved surface is preferable in most cases;

b) Landscaping should be native and drought tolerant or site appropriate; and

c) Other specific conditions described in the City's adopted Parks and Recreation Plan.

7. Restoration

a. Purpose

Restoration refers to the reestablishment or upgrading of impaired ecological processes or functions in the shoreline jurisdiction to achieve overall improvements over time when compared to the ecological conditions upon adoption of the SMP, as detailed in the City's *Shoreline Inventory and Characterization*.

Restoration is distinct from mitigation measures necessary to achieve no net loss of functions in the shoreline jurisdiction and will not be implemented through regulatory means. The following goals and policies are intended to guide the City's commitment to plan for restoration detailed in the City's *Restoration Plan.*

b. Policies

1. Reclaim and restore biologically and aesthetically degraded areas in the shoreline jurisdiction, to the greatest extent feasible while maintaining appropriate use of the City's shoreline jurisdiction.
2. Work collaboratively with other jurisdictions and stakeholders to implement the *Restoration Plan*.
3. Seek funding where possible for various restoration actions and programs by working with stakeholders and other jurisdictions to seek federal, state, grant and other funding opportunities.
4. Follow the Application for Relief option from expansion of SMA jurisdiction by restoration projects in the shoreline jurisdiction set forth in RCW 90.58.580 when appropriate.

c. Regulations

1. The City shall prepare a *Restoration Plan* as part of the SMP update process. The plan shall guide the City's voluntary efforts to achieve overall

improvements over time when compared to the baseline condition at the time of the adoption of the SMP update.

8. Shoreline Modifications

a. Purpose

Shoreline modification activities are those actions that modify the physical configuration or qualities of the Shoreline Jurisdiction. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of the ecological functions necessary to sustain shoreline natural resources. They are also intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the SMA.

This Chapter addresses Dredging, Fill, and Shoreline Stabilization. Flood Hazard Reduction activities are conditional uses addressed in SMP Chapter 4.B.5. Clearing and Grading are permitted uses in all shoreline environment designations except for Aquatic, where they are conditional uses, and are addressed in SMP Chapter 4.B.10.

b. Shoreline Modification Table

1. Interpretation of Shoreline Modification Table

   The shoreline modification table below determines whether a specific modification is allowed within each of the shoreline environments in the shoreline jurisdiction. See the individual standards for full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

Table 1 – Shoreline Modifications

KEY
P = Permitted Use, and only if zoning allows
C = Conditional Use, subject to the shoreline conditional use review procedures (SMP Chapter 6: Administration), and only if zoning allows
X = Prohibited

Shoreline Modification Activity (1)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Clearing and Grading (SMP Chapter 4.B.10)	P	P	P	C
Dredging (SMP Chapter 4.B.8.d)	X	X	X	C
Fill (SMP Chapter 4.B.8.e) (2)	C	C	C	C
Shoreline Stabilization (SMP Chapter 4.B.8.f)	C	C	C	C
Flood Hazard Reduction (SMP Chapter 4.B.5)	C	C	C	C

Notes:

1. *In the event of a conflict between the table and the regulatory text, the text shall hold.*
2. *Prohibited, unless fill is part of an approved use or development in the shoreline jurisdiction.*

c. General Modifications

1. Applicability

   The following provisions apply to all shoreline modification activities whether such proposals address a single property or multiple properties. Additional requirements as contained in other Chapters of the SMP apply. Where a general standard, environment standard, or use standard conflicts with the provisions contained in this Chapter, the more restrictive shall apply.

2. Policies

   a) Reduce the adverse effects of shoreline modifications, as much as possible, and limit shoreline modifications in number and extent.

   b) Take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, preferring "soft" over "hard"

shoreline modification measures, and by requiring mitigation of identified impacts resulting from shoreline modifications.

c) Ensure that shoreline stabilizations are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

d) Limit shoreline stabilizations in number and extent, incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the shoreline jurisdiction, and require mitigation sequencing, if needed.

3. Regulations

e) All shoreline modifications must be in support of a permitted use in the shoreline jurisdiction or provide for human health and safety.

f) All development in the shoreline jurisdiction shall be located and designed to prevent or minimize the need for shoreline modification activities.

g) In reviewing shoreline modification permits, the City's Shoreline Administrator shall require steps to reduce significant ecological impacts according to the mitigation sequence described in SMP Chapter 4: General Regulations, Section 4.c.2.

h) The City's Shoreline Administrator shall base all shoreline modification decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.

d. Dredging

1. Purpose

Prevent impacts to ecological functions and processes in the shoreline jurisdiction that may occur because of dredging and the disposal of dredge material. Dredging is the scooping or suction activity to remove materials from the bottom of waterways for deepening the water body.

2. Policies

a) Allow dredging and dredge material disposal as a conditional use in all shoreline environments.

b) Require dredging and dredging material disposal to avoid significant ecological impacts.

c) Prevent dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material, except when the material is necessary for the restoration of ecological functions.

d) Allow dredging as part of ecological restoration or enhancement, public access, or flood storage, if deemed consistent with the SMP.

3. Regulations

a) Dredging and dredge material disposal shall be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided shall be mitigated in a manner that assures no net loss of ecological functions in the shoreline jurisdiction.

b) The disposal of dredge materials within river channel migration zones (CMZs) is discouraged, and, in limited instances when allowed, requires a shoreline conditional use permit.

c) Dredging for flood control shall be allowed only if a biological and geomorphological study demonstrates a long-term benefit to flood hazard reduction, no net loss of ecological function, and is part of a comprehensive flood hazard management solution.

d) Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth, and width.

e) New development siting and design shall avoid the need for new and maintenance dredging.

f) Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material is not allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a Model Toxics Control Act (MTCA) or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project

g) Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of ecological functions in the shoreline jurisdiction. Dredge disposal within CMZs is discouraged,

and in the limited instances when it is allowed, requires a shoreline conditional use permit.

h) If applicable, the use of dredge material to benefit resources in the shoreline jurisdiction shall be addressed through implementation of regional interagency dredge material management plans or watershed plan.

e. Fill

1. Purpose

   Prevent impacts to ecological functions and processes that may occur because of fill within the City's shoreline jurisdiction. Fill is the addition of soil, sand, rock, gravel, sediment, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

2. Policies

   a) Allow fill as a conditional use in all shoreline environments.

   b) Require the minimization of the use of fill for any proposal.

   c) Ensure that the placement of fill does not result in a loss of flood storage.

   d) Protect ecological processes and functions, including channel migration by regulating the location, design, and construction of all fill.

3. Regulations

   a) The following submittal information shall be required for fill projects:

      1) Proposed use of the fill area;

      2) Physical, chemical, and biological characteristics of the fill material;

      3) Source of the fill material, fill material must come from a clean source;

      4) Method of placement and compaction;

      5) Location of the fill relating to natural or existing drainage patterns;

      6) Location of the perimeter of the fill relating to the ordinary high water mark, or any critical areas;

7) Perimeter erosion control or stabilization means, and schedule for implementation; and

8) Type of surfacing and run-off control and treatment devices.

b) Fill shall be allowed only where it is demonstrated that it will not result in the following:

1) Net loss to water quality, fish, shellfish, and/or wildlife habitats;

2) Adverse alteration to natural drainage and circulation patterns, currents, rivers, or significant reduction of flood water capacities; and

3) Adverse interference of geological processes in the City's shoreline jurisdiction.

c) Fill waterward of the ordinary high water mark for water-dependent use, public access, disposal of dredged material in accordance with the Department of Natural Resources (WDNR) Dredged Material Management Program, or the expansion or alteration of transportation facilities of statewide significance currently located in the City's shoreline jurisdiction shall be reviewed through the conditional use permit process.

d) Fill waterward of the ordinary high water mark for mitigation action, environmental restoration, or enhancement project shall be reviewed through the conditional use permit process.

e) Where fill is allowed, the fill shall be the minimum necessary to accomplish the proposed use.

f) The placement of fill shall be timed to minimize damage to water quality and aquatic life.

g) To prevent loss of flood storage, compensatory storage shall be provided commensurate with the amount of fill placed in the floodway.

h) Fill areas in the shoreline jurisdiction must be designed to prevent erosion and material movement from the filled area. Erosion control techniques shall be utilized including silt curtains, retaining walls, and vegetation.

i) Speculative fill is prohibited. Fill, waterward of the ordinary high water mark and/or upland is allowed only in conjunction with a permitted use.

f. Shoreline Stabilization

1. Purpose

   The purpose of these shoreline stabilization general regulations is to prevent impacts to ecological functions and processes that may occur because of shoreline modifications within the City's shoreline jurisdiction. This Section shall be used for both structural and non-structural shoreline stabilization measures, used to minimize erosion and/or residential flooding, as well as new stabilization measures including enlargements to existing stabilization structures. Structural modifications associated with any flood hazard prevention structures along the Yakima River shall also be reviewed under SMP Chapter 4: General Regulations, Section 5.

2. Policies

   a) Allow shoreline stabilization as a conditional use in all shoreline environments.

   b) Require shoreline stabilization requests to include information on the impacts that such modifications would have on the shoreline environment and on the likely migration of the river channel.

   c) Prefer non-structural-bank shoreline stabilization to structural treatments.

   d) Require new development to be located and designed to avoid the need for future stabilization to the extent feasible.

   e) Require new development on steep slopes and bluffs to be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.

   f) Prohibit new development that would require shoreline stabilizations that causes significant impacts to adjacent or down-current properties and areas in the shoreline jurisdiction.

   g) Prohibit hard armoring shoreline stabilizations solutions where it is demonstrated that an existing structure will be damaged within three (3) years because of shoreline erosion in the absence of such hard armoring measures, or where waiting would bar the opportunity to use measures that avoid impacts on ecological functions.

h) Allow new shoreline stabilization structures for existing primary residential structures only where no alternatives including relocation or reconstruction of existing structures are feasible and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.

i) Limit shoreline stabilizations in number and extent, incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the shoreline jurisdiction, and require mitigation sequencing, if needed.

j) Limit shoreline stabilization structures to the minimum size necessary.

k) CMZs are areas where natural river processes can cause the river channel to migrate laterally over time. Within the CMZ, the following policies apply:

1) Limit development and shoreline modifications that would result in interference with the process of channel migration; and

2) Limit development and shoreline modifications that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the Yakima River.

l) Require public access as part of publicly financed shoreline erosion control measures.

m) Require that impacts to sediment transport be avoided or minimized.

3. Regulations

a) The granting of the conditional use permit shall only occur where the applicant has demonstrated that the structural shoreline stabilization is necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for mitigation or enhancement and that a non-structural shoreline modification or an increase in the setback of the primary structure cannot achieve the same objective.

b) Shoreline stabilizations shall be designed to ensure no net loss of ecological functions and values. In reviewing requests for shoreline modifications, the City shall review modification requests consistent with the specific shoreline environment designation and environmental conditions of the site. Mitigation measures may be required to address no net loss of ecological function.

c) Shoreline stabilization structures shall be limited to the minimum size necessary.

d) New development shall be located and designed to avoid the need for future stabilization to the extent feasible based upon geotechnical analysis.

e) New development on steep slopes and bluffs shall be set back to prevent need for future shoreline stabilization during life of the project, based upon geotechnical analysis.

f) New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and areas in the shoreline jurisdiction is prohibited

g) Impacts to sediment transport shall be avoided or minimized.

h) New structural stabilization measures are prohibited unless necessity is demonstrated in the following manner:

1) To protect existing primary structures:

i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including single-family residences, should not be allowed unless there is conclusive geotechnical evidence that the structure is in danger from shoreline erosion. The geotechnical analysis should evaluate onsite drainage issues and address drainage problems away from the ordinary high water mark before considering structural shoreline stabilization and/or modification; and

ii. The erosion control structure will not result in a net loss of ecological functions in the shoreline jurisdiction.

2) In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

ii. Nonstructural measures, such as placing the development further from the edge of the water, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes; and

iv. The erosion control structure will not result in a net loss of ecological functions in the shoreline jurisdiction.

3) In support of water-dependent development when all of the conditions below apply:

i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

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

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report; and

iv. The erosion control structure will not result in a net loss of ecological functions in the shoreline jurisdiction.

4) In support of ecological restoration/toxic clean-up remediation projects when all of the conditions below apply:

i. When it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect ecological function restoration projects, or hazardous substance remediation projects from erosion; and

ii. Non-structural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

i) Geotechnical reports required pursuant to this Section shall be prepared by a geologist or geotechnical engineer licensed as a civil engineer in the state of Washington. The geotechnical report shall include at a minimum the following:

1) A scaled site plan showing:

i. The location of existing and proposed shore stabilization, structures, and/or fill;

ii. Vegetation, with dimensions indicating distances to the ordinary high water mark; and

iii. Existing site topography, preferably with 2 foot contours.

2) A description of the processes affecting the site, and surrounding areas that influence or could be influenced by the site, including areas in which creek or river geomorphic processes affect the site, including, but not limited to:

   i. Soil erosion, deposition, or accretion;

   ii. Evidence of past or potential channel migration; and

   iii. An estimate of shoreline erosion rates.

3) Geotechnical reports generated to identify the need to prevent potential damage to an existing primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency (damage within 3 years) associated with the specific situation. The report shall also determine whether damage to the primary structure will occur within three (3) years as well as explore alternative shoreline stabilization methods.

j) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by natural conditions.

1) The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

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

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

4) For purposes of this Section, standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure, which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

k) When any structural shoreline stabilization measures are demonstrated to be necessary based on the regulations above, the following shall design criteria shall apply:

1) The size of stabilization measures shall be limited to the minimum necessary;

2) "Soft" over "hard" shoreline modification measures shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses;

3) Public access to the shoreline jurisdiction shall not be impaired with publicly funded projects except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions; and

4) Hydraulic analysis shall be provided to demonstrate that the stabilization strategy allows sediment conveyance to mimic natural conditions.

9. Shorelines of Statewide Significance

a. Purpose

The SMA designates the Yakima River as a Shoreline of Statewide Significance. As a result, the City of West Richland's shoreline jurisdiction is considered a major resource from which all people of the state derive benefits, thus preference is given to uses that favor long-range goals and support the overall public interest.

b. Policies

In implementing the objectives for Shorelines of Statewide Significance (RCW 90.58.020), the City will base decisions in preparing and administering the SMP on the following policies in order of priority, 1 being the highest and 7 being the lowest.

1. Recognize and protect the statewide interest over local interest.

   a. Make all information associated with the SMP and proposed amendments publicly available, and consider comments and opinions from groups and individuals representing statewide interests when developing and amending the SMP.

2. Preserve the natural character of the City's shoreline jurisdiction.

a. Designate and administer shoreline environments and use regulations to protect and restore the City's shoreline jurisdiction's ecology and character and the diversity of vegetation and habitat associated with areas of the shoreline jurisdiction; and

b. All development and redevelopment activities within the City's shoreline jurisdiction should be designed to achieve no net loss of the ecological functions of the shoreline jurisdiction.

3. Support actions that result in long-term benefits over short-term benefits.

   a. Restrict or prohibit development that would irreversibly damage resources in the shoreline jurisdiction.

4. Protect the resources and ecology of the City's shoreline jurisdiction.

   a. All development in the shoreline jurisdiction should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes; and

   b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of areas in the shoreline jurisdiction.

5. Increase public access to publicly owned areas in the City's shoreline jurisdiction.

   a. Implement a comprehensive way-finding signage program that directs the public to publicly owned property in the shoreline jurisdiction.

6. Increase recreational opportunities for the public in the City's shoreline jurisdiction.

7. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

10. Vegetation Conservation (Clearing and Grading)

a. Purpose

The intent of vegetation conservation in the shoreline jurisdiction is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation in the City's shoreline jurisdiction. Provisions for vegetation conservation in the shoreline jurisdiction include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species.

Clearing and grading includes the activities associated with developing any kind of development. Clearing involves the removal of vegetation and /or topsoil, while grading means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

b. Policies

1. Allow clearing and grading only in concert with permitted development in the shoreline jurisdiction.
2. Require clearing and grading activities to be minimized to the extent necessary to accommodate the scope of work within the City's shoreline jurisdiction.
3. Require that BMPs be utilized during clearing and grading activity consistent with the City's stormwater management program and the SMP.
4. Prohibit speculative clearing, grading, or vegetation removal within the required shoreline setback from the ordinary high water mark.
5. Conserve native riparian vegetation in the shoreline jurisdiction by restricting clearing and grading within shoreline setback from the ordinary high water mark to maintain ecological functions in the shoreline jurisdiction.
6. Allow clearing activities associated with dike or levee maintenance as necessary to provide protection from flood hazards.
7. Explore opportunities for weed management to eliminate non-native vegetation invasives and encourage the planting and enhancement of native vegetation along the Yakima River.

c. Regulations

1. Allow clearing and grading as a permitted or conditional use in all shoreline environments as noted in SMP Chapter 4: General Regulations, Section B.8 - Table 1: Shoreline Modifications.
2. Clearing and grading shall be minimized in the shoreline jurisdiction and areas cleared of vegetation and not developed shall be replanted as soon as possible.
3. Clearing and grading activities associated with the necessary maintenance of flood hazard prevention structures for the purposes of maintaining flood protection are allowed.

4. During construction, vegetation in the shoreline jurisdiction shall be protected by placement of a temporary barricade at the location of the shoreline setback from the ordinary high water mark and implementation of appropriate erosion and sedimentation controls.
5. Surface water runoff related to clearing and grading associated with development in the shoreline jurisdiction shall be minimized and comply with the City's stormwater management program and all applicable regulations.
6. Normal maintenance, if found to comply with SMP Chapter 6: Administration, including pruning and trimming of vegetation, shall be allowed within the City's shoreline jurisdiction. Topping of trees for view purposes only shall not be allowed.
7. Clearing of invasive non-native vegetation in the shoreline jurisdiction as identified by the State of Washington and/or Benton County as a noxious weed is allowed in the City's shoreline jurisdiction.
8. Removal of invasive non-native vegetation in the shoreline jurisdiction is allowed if only hand-held equipment is used and native vegetation is promptly reestablished in the disturbed area.
9. Clearing and grading activities and related alteration of the natural landscape shall only be allowed in association with a permitted use or development in the shoreline jurisdiction or a letter of exemption with limited exceptions as set forth below:
    a) Removal of noxious weeds as listed by the state in WAC Chapter 16-750, provided such activity must be conducted in a manner consistent with BMPs and the City's engineering standards and stormwater management program. Native vegetation shall be promptly reestablished in the disturbed area in the shoreline jurisdiction; or
    b) Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes, and other activities allowed pursuant to these regulations, if said modification is conducted in a manner consistent with the SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.
    c) Mosquito abatement activities specifically authorized by the Benton County Mosquito Control District.
10. Restoration of any part of the shoreline jurisdiction that has been disturbed or degraded shall use native plant materials, unless such restoration occurs

within a developed and maintained ornamental landscape, in which case non-invasive plant materials, similar to that which most recently occurred on-site, may be used.

11. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City's Shoreline Administrator within one (1) year. Replanted areas in the shoreline jurisdiction shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished.

12. Aquatic vegetation control shall only occur where native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington State Department of Fish and Wildlife (WDFW) requirements.

11. Water Quality

a. Purpose

Prevent impacts to water quality and stormwater quality that would result in a loss of ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

b. Policies

1. Protect the City's shoreline jurisdiction by ensuring that surface water quality and quantity regulations are administered in the shoreline jurisdiction.

c. Regulations

1. All development in the shoreline jurisdiction shall comply with the applicable requirements of the SMP, the City's adopted stormwater management program, and all applicable City stormwater regulations.

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Chapter 5: **Use Specific Regulations**

A. Introduction

As required by the SMA, the SMP sets forth policies and regulations governing specific categories of uses and activities typically found in the shoreline jurisdiction. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies, and intent of the SMA and the SMP.

B. Allowed Shoreline Uses

1. Interpretation of the Permitted, Conditional, and Prohibited Uses Table

   The permitted, conditional, and prohibited uses table below determines whether a specific use is allowed within each of the shoreline environments. See the use specific regulations following the table for a full explanation of specific purpose, policies, and regulations for each use.

   The shoreline environment is located on the vertical column of the table and the use is located on the horizontal row of the table. There are subcategories for some uses. Uses are permitted, conditional, or prohibited in a particular shoreline environment. The permit requirements for permitted and conditional uses are found in SMP Chapter 6: Administration.

Table 2 – Permitted, Conditional, and Prohibited Uses

KEY (2)
P = Permitted Use
C = Conditional Use
X = Prohibited

Shoreline Uses (1,2)	High Intensity	Shoreline Residential	Urban Conservancy	Aquatic (3)
Agriculture	P	P	P	X
Aquaculture	X	X	X	C
Boating Facilities – Boat Launches and Docks	C	C	C	C
Civic	P	P	C	X
Commercial (6)	P	X	X (7)	X
Forest Practices	X	X	X	X
In-Stream Structures				
As Part of a Fish Habitat Enhancement Project	X	X	X	C
Industry	X	X	X	X
Mining	X	X	X	X
Parking (4)	P	P	P	X
Recreational Development				
Water-Oriented	P	P	P	P (5)
Non-Water-Oriented	P	P	P	X
Residential Development (6)	P	P	P	X
Signs	P	P	P	X
Transportation Facilities				
New Roads related to Permitted Activities in the Shoreline Jurisdiction	P	P	P	X
Bridges for Motorized and Non-Motorized Uses	C	C	C	C
Expansions of Existing Circulation Systems outside of New Roads related to Permitted Activities in the Shoreline Jurisdiction	C	C	C	X
Utilities (Primary)				
Solid Waste Disposal or Transfer Sites	X	X	X	X
Other	C	C	C	C
Utilities (Accessory)				
Local Public Water, Electric, Natural Gas Distribution, Public Sewer Collection, Cable and Telephone Service, and Appurtenances	P	P	P	C

Notes:

1. *In the event of a conflict between the table and the regulatory text, the text shall govern.*
2. *Any use that would substantially degrade the ecological functions or natural character of the City's shoreline jurisdiction should not be allowed. In addition, development shall be subject to the allowed uses established by the underlying zoning.*
3. *Where a use would be located both upland and overwater, the more restrictive standards apply.*
4. *Parking is allowed as an accessory use to an approved use in the City's shoreline jurisdiction. Off-street parking lots or parking structures as a primary use are prohibited in all shoreline environments.*
5. *Only water-dependent uses are permitted in the Aquatic designation.*
6. *Small-scale home occupations, as established by WRMC Title 17.54.47 - Small-Scale Home Occupations (2008), are incidental and accessory to a residential use. Use the 'Residential' use category to determine whether they are allowed in a particular shoreline environment designation.*
7. *Concession stands, gift shops, and interpretive centers are permitted as accessory uses, when limited to serving a related, permitted park and recreation use in the Urban Conservancy zone.*

C. Basic Shoreline Development Standards

1. Interpretation of the Minimum Shoreline Setback from the Ordinary High Water Mark Table

   The minimum shoreline setback from the ordinary high water mark table below determines how far a structure, use, and all development (parking, utilities, stormwater facilities, etc.) related to that use needs to be set back from the OHWM within each of the shoreline environments. The purpose of the shoreline setback from the ordinary high water mark is to protect the integrity, function, and value of riparian habitat.

   The area within the shoreline setback from the ordinary high water mark shall be protected during construction by placement of a temporary barricade or fencing, on-site notice for construction crews of the presence of the river or stream, and implementation of appropriate erosion and sedimentation controls.

The required shoreline setback from the ordinary high water mark widths reflect the sensitivity of the Yakima River and associated riparian habitat, or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the sensitive area. Native vegetation removal or disturbance is not allowed in established shoreline setback from the ordinary high water mark, except as authorized in the SMP.

See the notes section following the table for details on shoreline setback from the ordinary high water mark requirements. The shoreline environment is located on the vertical column of the table and the use is found on the horizontal row of the table. There are subcategories for each uses. These may include the following terms:

a. Water-dependent means a use that cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations, such as a port or sewer outfall.

b. Water-related means a use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location, such as a fish processing plant or a sewer treatment plant.

c. Water-enjoyment means a recreational use or other use that facilitates public access to the shoreline jurisdiction as a primary characteristic of the use. Examples would be trails, golf courses, parks, etc.

d. Non-water-oriented means everything else: a house, an auto parts store, city hall, etc.

The minimum shoreline setback from the ordinary high water mark for a particular use is determined by finding the use and the most appropriate subcategory row and then finding the intersection with the appropriate shoreline environment designation column.

Table 3 – Minimum Shoreline Setbacks from the Ordinary High Water Mark

KEY
N/A = Not Applicable

Minimum Shoreline Setback from the Ordinary High Water Mark (Measured landward from the ordinary high water mark) (1)(2)(3)	**High Intensity**	**Shoreline Residential**	**Urban Conservancy**	**Aquatic**
Agriculture				
New agricultural activities only	80 feet	100 feet	100 feet	N/A
Boating Facilities – Boat Launches and Docks				
Water-dependent structures	0 feet	0 feet	0 feet	N/A
Civic				
Water-dependent structures	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures	30 feet	30 feet	30 feet	N/A
Non-water-oriented structures	80 feet	100 feet	100 feet	N/A
Commercial				
Water-dependent structures	0 feet	N/A	N/A	N/A
Water-related and water-enjoyment mixed-use structures	30 feet	N/A	N/A	N/A
Non-water-oriented structures	80 feet	N/A	N/A	N/A
Parking				
Off-Street Parking Lots or Structures as an Accessory Use (4)	80 feet	100 feet	100 feet	N/A
Recreational Development				
Water-dependent structures and uses	0 feet	0 feet	0 feet	N/A
Water-related and water-enjoyment structures and uses	30 feet	30 feet	30 feet	N/A
Non-water-oriented structures and uses	80 feet	100 feet	100 feet	N/A
Residential Development				
Non-water-oriented structures (5)	80 feet	100 feet	100 feet	N/A
Signs				
Freestanding Sign Structures	80 feet	100 feet	100 feet	N/A
Transportation Facilities				
New Roads related to Permitted Activities in the Shoreline Jurisdiction	80 feet	100 feet	100 feet	N/A
Bridges for Motorized and Non-motorized Uses	0 feet	0 feet	0 feet	N/A
Expansions of Existing Circulation Systems outside of New Roads related to Permitted	30 feet	30 feet	50 feet	N/A

Minimum Shoreline Setback from the Ordinary High Water Mark (Measured landward from the ordinary high water mark) (1)(2)(3)	**High Intensity**	**Shoreline Residential**	**Urban Conservancy**	**Aquatic**
Activities in the Shoreline Jurisdiction				
Utilities (Primary and Accessory)				
Water-dependent structures	0 feet	0 feet	0 feet	N/A
Water-related structures	30 feet	30 feet	30 feet	N/A
Non-water-oriented structures	80 feet	100 feet	100 feet	N/A

Notes:

1. *Shoreline setbacks from the ordinary high water mark are measured landward on a horizontal plane perpendicular to the ordinary high water mark.*

   a) *These shoreline setbacks from the ordinary high water mark are the minimum shoreline setbacks from the ordinary high water mark unless it is necessary to protect river or stream functions and values, as determined by a stream analysis report, then the requirement that provides the most protection to the City's shoreline jurisdiction shall be applied.*

   If the City's Shoreline Administrator determines that a project may be located within a river or stream or within a required shoreline setback, a stream analysis report shall be prepared. The stream analysis report shall be prepared by a qualified stream biologist in accordance with the methods provided by the WDFW or other acceptable scientific method and submitted to the City's Shoreline Administrator as part of a shoreline permit application.

   After receipt of the stream analysis report and other information, the City's Shoreline Administrator shall determine the appropriate setback requirements and required mitigation. The stream analysis report shall be accorded substantial weight and the City's Shoreline Administrator shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so. Once accepted, the stream analysis report shall control future decision-making related to the designated stream segment unless new information is found demonstrating the stream analysis report is in error.

   The Shoreline Administrator shall require increased shoreline setback from the ordinary high water mark widths in accordance with the stream analysis report

on a case-by-case basis when a larger setback is necessary to protect river or stream functions and values based on site-specific characteristics.

Circumstances that may require increased shoreline setback widths include, but are not limited to, the following:

1) *An increased shoreline setback width is necessary to include the entire riparian corridor of the river or stream;*
2) *A larger shoreline setback is needed to protect other critical areas;*
3) *The shoreline setback or adjacent uplands has a slope greater than 30 percent or is susceptible to erosion, and standard erosion-control measures will not prevent adverse impacts to the river or stream.*

b) *Developments associated with an ecological restoration, such as native vegetation replantings, water-dependent uses, and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of buildings, structures, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. These developments must demonstrate "no net loss" of ecological functions prior to being approved within the setback. In no case shall parking be allowed within the minimum setback.*

c) *The City may reduce minimum shoreline setback from the ordinary high water mark if it determines that the type of development allowed within the SMP and other municipal, state, and federal codes cannot be accommodated within the allowed site development area by reconfiguring, relocating, or resizing the proposed development. Where the City reduces a minimum shoreline setback from the ordinary high water mark requirement, compensatory mitigation, such as vegetation enhancement, must be provided as determined by the City.*

d) *Shoreline setback from the ordinary high water mark width reductions may be authorized according to the following standards. Setback widths shall not be reduced to accommodate unauthorized actions, such as code violations, that have degraded the setback.*

1) *Maximum Setback Reductions. The setback widths may be reduced by up to twenty-five (25) percent if an applicant undertakes measures approved by the Shoreline Administrator to enhance the functions and values of the habitat in the shoreline jurisdiction substantially.*

2) *Decision Criteria. Prior to approval, a setback reduction proposal shall meet all of the decisional criteria listed below. The setback reduction will be approved in a degraded setback only if:*

   i. *The project will provide an overall improvement in water quality protection for the water body;*

   ii. *The project will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat;*

   iii. *The project will provide a net improvement in drainage and/or stormwater detention capabilities;*

   iv. *All exposed areas are stabilized with native vegetation, as appropriate;*

   v. *The reduction will not lead to unstable earth conditions or create an erosion hazard; and*

   vi. *The reduction will not be materially detrimental to any other property or the City as a whole.*

3) *Setback Enhancement Plan. As part of the setback reduction request, the applicant shall submit a setback enhancement plan prepared by a qualified stream biologist. The setback enhancement plan shall also provide:*

   i. *A map locating the specific area of enhancement;*

   ii. *A planting plan that uses native plant species indigenous to this region including groundcover, shrubs, and trees; and*

   iii. *Provisions for monitoring and maintenance over the monitoring period.*

2. *When environment designations are parallel, the setback of the waterward environment extends only to the upland edge of that environment. The setback for the upland environment would apply to uses and modifications in that upland environment.*

3. *Except for height regulations found in Table 4 – Maximum Shoreline Heights, see zoning regulations for all other bulk and dimensional requirements that apply to specific zones.*

4. *Off-street parking lots or parking structures as a primary use are prohibited in all shoreline environments.*

5. *The shoreline setback from the ordinary high water mark for residential development protected by the levee certified by the U.S. Army Corps of Engineers and maintained by the Benton County Diking District No. 1 may be reduced to 50 feet.*

2. Interpretation of the Maximum Shoreline Heights Table

   The maximum shoreline heights table below establishes how tall a structure can be within each of the City's shoreline environment designations. The purpose of the maximum shoreline height is to protect views of the City's shoreline jurisdiction.

   The maximum shoreline height for a particular use is determined by its shoreline environment designation.

Table 4 – Maximum Shoreline Heights

KEY
N/A = Not Applicable

Maximum Shoreline Heights (1)(2)	**Maximum Height (Feet)**
High Intensity	
Within 100 feet of the ordinary high water mark	35 feet
More than 100 feet from the ordinary high water mark	(3)
Shoreline Residential	35 feet
Urban Conservancy	35 feet
Aquatic	N/A

Notes:

1. *Development shall also be subject to the height limits established by the underlying zoning. Height is defined in WAC 173-27-030(9) as:*

   "…measured from average grade level to the highest point of a structure: provided that television antennas, chimneys, and similar appurtenances shall not

be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable SMP specifically requires that such appurtenances be included: provided further that temporary construction equipment is excluded in this calculation."

2. *See zoning regulations for all other bulk and dimensional requirements that apply to specific zones.*
3. *Use the height regulations within the underlying zoning district. See WRMC 17.54.050 - Area and Dimensional Regulations (2012).*

D. Shoreline Use Policies and Regulations

1. General Use Policies

a. Purpose

The provisions in this Section apply to all uses allowed within the City's shoreline jurisdiction.

b. Policies

1. Prohibit the following uses within the City's shoreline jurisdiction: Forest Practices, Industry, and Mining.
2. Apply the following preferences and priorities in the order listed below to determine allowable uses and resolve use conflicts within the City's shoreline jurisdiction:
    a. Reserve appropriate areas in the shoreline jurisdiction for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health;
    b. Reserve areas in the shoreline jurisdiction for water-dependent and associated water-related uses;
    c. Reserve areas in the shoreline jurisdiction for other water-related and water-enjoyment uses compatible with ecological protection and restoration objectives;
    d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses; and

e. Limit non-water-oriented uses to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA, including opportunities for ecological enhancements and public access improvements.

3. Ensure that proposed economic uses of the City's shoreline jurisdiction are consistent with the City's Comprehensive Plan. Conversely, make sure that upland uses on adjacent lands outside of the immediate SMA jurisdiction in accordance with RCW 90.58.340 are consistent with the purpose and intent of the SMP as they affect the City's shoreline jurisdiction.
4. Ensure that the development potential within the City's shoreline jurisdiction is consistent with the projected demand for economic resources of statewide importance.
5. Base the determination of public access and recreation development potential on demand projections.
6. Design all development and redevelopment activities within the City's shoreline jurisdiction to ensure public safety, enhance public access, protect existing water views, avoid adverse impacts to habitats, and achieve no net loss of ecological functions in the shoreline jurisdiction.
7. Ensure that proposed shoreline uses do not infringe upon the rights of others or upon the rights of private ownership.
8. Encourage shoreline uses that enhance their specific areas in the shoreline jurisdiction or employ innovative features for purposes consistent with the SMP.
9. Encourage restoration of parts of the shoreline jurisdiction that have been degraded or diminished in ecological value and function because of past activities or catastrophic events.

c. Regulations

1. Shoreline uses shall be allowed only if the underlying zoning allows the use.
2. Forest Practices, Industry, and Mining uses are prohibited in the City's shoreline jurisdiction.

2. Agriculture

a. Purpose

Agriculture includes, but is not limited to, the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees not subject to the excise tax imposed

by RCW 84.33.100 through RCW 84.33.140; or livestock, that has long-term commercial significance as well as the other definitions of agricultural use found in WAC 173-26-020(3).

In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in RCW 90.58.030, .065, and WAC 173-26-020. The SMP applies only to new agricultural activities, and shall not require modification of or limit existing and ongoing agricultural activities in the City's shoreline jurisdiction, consistent with WAC 173-26-241.

b. Policies

1. Allow agriculture in all shoreline environments, except the Aquatic shoreline environment.
2. Prohibit the creation of new agricultural lands by diking, draining, or filling marshes, bogs, and swamps.
3. Set back all new agricultural activities from the ordinary high water mark according to the setbacks established for the shoreline environment in which the activity is occurring.
4. Condition all significant new agricultural development to be consistent with the shoreline environment designation and located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other resources and values in the shoreline jurisdiction. The City's Shoreline Administrator will consult the provisions of the SMP and determine the applicability and extent of ecological mitigation. The extent of ecological mitigation shall be that which is reasonable given the specific circumstances of an agricultural development.

c. Regulations

1. All new agricultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and the SMP to ensure no net loss of ecological function.
2. All new agricultural activities shall occur outside of the established shoreline setback in the shoreline jurisdiction.
3. A setback of natural or planted permanent native vegetation not less than twenty (20) feet in width, measured perpendicular to ordinary high water mark, shall be maintained between areas of new development for crops, grazing, or other agricultural activity and adjacent waters and associated wetlands. The City's Shoreline Administrator shall determine the extent and composition of the setback

based on the requirements of BAS and site-specific criteria for establishing efficacy of the vegetated setback (slope, rainfall, surface uniformity, etc.) when the applicant applies for a shoreline permit or letter of exemption.

4. Manure lagoons, confinement lots, feeding operations, lot wastes, stockpiles of manure solids, aerial spraying, and storage of noxious chemicals are prohibited within the City's shoreline jurisdiction.
5. A shoreline substantial development permit is required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).
6. Conversion of agricultural land to non-agricultural uses shall be consistent with the shoreline environment designation, and regulations applicable to the proposed use shall not result in a net loss of ecological functions.

3. Aquaculture

a. Purpose

Aquaculture is the farming or culturing of food fish or other aquatic plants and animals in lakes, rivers, streams, and other natural or artificial water bodies. There are no existing aquaculture activities within the City's shoreline jurisdiction.

b. Policies

1. Prohibit aquaculture uses in all shoreline environment designations, except as a conditional use within the Aquatic shoreline environment.
2. Make aquaculture a preferred use of the water area in the shoreline jurisdiction as it is dependent on the use of the water area, when consistent with control of pollution and prevention of damage to the environment.
3. Future aquaculture uses are not anticipated within the City's shoreline jurisdiction and potential locations for aquaculture are restricted. However, the technology associated with some forms of present-day aquaculture is still in its formative stages and experimental, and the City recognizes the need for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

c. Regulations

1. General ecological siting considerations:
    a. Local ecological conditions shall be considered in developing limits and conditions to assure appropriate types of aquaculture are compatible for local conditions and assure no net loss of ecological functions.

b. Aquaculture is not allowed in areas in the shoreline jurisdiction where it would result in a net loss of ecological functions. Impacts to ecological functions shall be mitigated consistent with the mitigation sequence. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, or establish new non-native species, which cause significant ecological impacts.

2. Aquaculture is not allowed in areas in the shoreline jurisdiction where it would significantly conflict with navigation or other water-dependent uses.

3. Aquacultural facilities should not significantly affect the aesthetic qualities of the City's shoreline jurisdiction.

4. Boating Facilities – Boat Launches and Docks

a. Purpose

Boating facilities refer to structures providing public recreational opportunities on the waters of the state including but not limited to marinas, public docks, buoys, etc. Boating facilities does not refer to docks that serve four (4) or fewer single-family residences. Boating facilities in the City are limited to public boat launches and docks and shall be subject to the policies and regulations of this Section.

b. Policies

1. Allow boating facilities as a conditional use in all shoreline environments.

2. Locate, design, and operate boating facilities to ensure no net loss of ecological functions or other significant adverse impacts while providing public recreational opportunities, and, where feasible, enhance degraded and/or scarce ecological functions in the shoreline jurisdiction.

3. Locate boating facilities to the extent possible in areas in the shoreline jurisdiction of low biological productivity.

4. Locate and design boating facilities so their structures and operations will be aesthetically compatible with the area in the shoreline jurisdiction visually affected and will not impair shoreline views. The need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.

5. Prevent boating facilities from obstructing navigable waters and consider adverse effects to recreational opportunities such as swimming, fishing, and shoreline viewing.

6. Ensure that health, safety, and welfare requirements are met.

7. Require public access in new boating facilities.

c. Regulations

1. New boating facilities are limited to public boat launch facilities and docks.
2. Boating facilities shall not allow live-aboard vessels.
3. Boating facilities shall not significantly affect the rights of navigation on the waters of the state.
4. Location Standards.
   a) New boating facilities shall not be allowed in areas in the shoreline jurisdiction where dredging will be required or where impacts to ecological functions and processes in the shoreline jurisdiction cannot be mitigated.
   b) Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to protect facilities, users, and watercraft adequately from floods or destructive storms.
   c) Boating facilities shall be sited so that they minimize and mitigate for impacts to ecological processes and functions and do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation in the shoreline jurisdiction. Removal of native upland vegetation shall be minimized to the greatest extent feasible.
   d) Boating facilities shall be located to protect the public health, safety, and welfare.
   e) Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.
5. Facility Design.
   a) All boating facilities shall be designed to avoid and minimize impacts. All impacts must be mitigated consistent with mitigation sequencing and no net loss requirements.
   b) All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size, and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized.
   c) Boating facilities shall comply with all regulations as stipulated by state and federal agencies, affected Native American tribes, or other agencies with jurisdiction.

d) Boating facilities shall be constructed of materials that have the minimum ecological impact.

e) Overwater components of all boating facilities shall allow transmission of light through the deck surface.

f) Preferred launch ramp designs for motorized boats, in order of priority, are:

    i. Open grid designs with minimum coverage of river or lake substrate.

    ii. Seasonal ramps that can be removed and stored upland.

    iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.

6. Site Design and Operation.

a) Boating facilities shall be designed so that lawfully existing or planned public access in the shoreline jurisdiction is not blocked, obstructed, nor made dangerous.

b) New boating facilities shall provide physical and/or visual public or community access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal.

c) Public or community access areas in the shoreline jurisdiction shall provide space and facilities for physical and visual access to water bodies, including feasible types of shore recreation.

d) Accessory uses at boating facilities shall be limited to water-oriented uses or uses that support physical or visual access in the shoreline jurisdiction for substantial numbers of the public. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use.

e) The streets serving the proposed facility must safely handle the traffic generated by such a facility.

f) The perimeter of parking and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas.

g) The facility must have provisions available for cleanup of accidental spills of contaminants.

5. Civic

a. Purpose

The provisions in this Section apply to all civic uses allowed within the City's shoreline jurisdiction. Civic uses and development include public facilities such as schools, libraries, churches, civic centers, police, fire, and other public safety structures, as well as private school and churches.

b. Policies

1. Allow civic uses as a permitted or conditional use in all shoreline environments except the Aquatic shoreline environment.
2. Prefer water-dependent civic uses to non-water-dependent civic uses and second, prefer water-related and water-enjoyment civic uses to non-water-oriented civic uses.
3. Allow civic uses on lands zoned for that purpose under WRMC Title 17 – Zoning (2014), where there are limited developed areas of non-water-oriented civic uses without direct access to the City's shoreline jurisdiction.
4. Civic uses may be authorized as water-related or water-enjoyment if they incorporate required and appropriate design and operational elements.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to ecological resources and values in the shoreline jurisdiction for all water-related or water-dependent civic development unless such improvements are demonstrated to be infeasible or inappropriate.
2. Non-water-oriented civic uses along the edge of the ordinary high water mark are prohibited unless they meet the following criteria:
    a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration;
    b. Navigability is severely limited at the proposed site; and the civic use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or
    c. The site is physically separated from the ordinary high water mark by another property or public right of way or is outside the shoreline setback from the ordinary high water mark.

3. Non-water-dependent civic uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
4. Civic development will not result in a net loss of ecological functions in the shoreline jurisdiction or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.

6. Commercial

a. Purpose

The provisions in this Section apply to all commercial uses allowed within the City's shoreline jurisdiction.

b. Policies

1. Allow commercial development only in the High Intensity shoreline environment.
2. Prefer water-dependent commercial uses to non-water-dependent commercial uses and second, prefer water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.
3. Allow commercial uses on sites physically separated from the ordinary high water mark by another property or public right of way or on lands zoned for that purpose under WRMC Title 17 – Zoning (2014), where there are limited developed areas of non-water-oriented commercial uses in the shoreline jurisdiction without direct access to the water.
4. Prohibit non-water-dependent commercial uses over water except within existing structures or when necessary to support water-dependent uses.

c. Regulations

1. Public access and ecological restoration shall be considered as potential mitigation of impacts to ecological resources and values in the shoreline jurisdiction for all commercial development unless such improvements are demonstrated to be infeasible and affect existing navigation, recreation, and public access.
2. New non-water-oriented commercial uses are prohibited unless they meet the following criteria:
    a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or

b. Navigability is severely limited and the commercial use provides a significant public benefit with respect to the SMA's objectives such as providing public access and ecological restoration; or

c. If the site is physically separated from the ordinary high water mark by another property or public right of way.

3. Non-water-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

4. Commercial development shall not result in a net loss of ecological functions in the shoreline jurisdiction or have significant adverse impact to other shoreline uses, resources, and values such as navigation, recreation, and public access.

7. Forest Practices

a. Purpose

Forest practices are unsuited to the goals of the City's shoreline jurisdiction.

b. Policies

1. Prohibit forest practice activities within all shoreline environment designations.

c. Regulations

1. Forest practices are prohibited in all shoreline environment designations.

2. For the purpose of the SMP, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of the SMP. These shall include vegetation conservation and shall be limited to the minimum necessary to result in no net loss of ecological functions and avoid impacts to recreation and public access.

3. The removal of trees in Shorelines of Statewide Significance shall be limited.

8. Industry

Industry uses are prohibited within the City's shoreline jurisdiction.

9. In-Stream Structures

a. Purpose

In-stream structures allowed in the City are limited to fish habitat enhancements, which are only found within the Aquatic shoreline environment designation.

b. Policies

1. Allow fish habitat enhancements as in-stream structures to protect and preserve ecosystem-wide processes, ecological functions, and cultural resources, including, fish and fish passage, wildlife and water resources, critical areas, hydrogeological processes, and natural scenic vistas in the shoreline jurisdiction.

c. Regulations

1. In-stream structures such as fish habitat enhancements shall be designed and permitted to meet all applicable City, state, and federal codes and regulations.

10. Mining

Mining uses are prohibited within the City's shoreline jurisdiction.

11. Parking

a. Purpose

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use or parking which serves a use not permitted in the City's shoreline jurisdiction is prohibited.

b. Policies

1. Allow parking only as an accessory use to a permitted or conditional use in all shoreline environments, except for the Aquatic shoreline designation.
2. Minimize parking in the shoreline jurisdiction.
3. Locate and design parking facilities in the shoreline jurisdiction to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, and vegetation and habitat. The location and design of the parking facilities should result in no loss of ecological functions.

c. Regulations

1. Parking as a primary use is prohibited in the City's shoreline jurisdiction.
2. Parking in the shoreline jurisdiction must directly serve a permitted shoreline use.
3. Parking facilities shall provide adequate provisions to control surface water run-off to prevent it from contaminating water bodies.
4. Parking facilities serving individual buildings in the City's shoreline jurisdiction shall be located upland from the principal building being served, except when parking facilities are within or beneath the structure and adequately screened, or

in cases when an alternate orientation would have less adverse impact on the City's shoreline jurisdiction.

5. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent and abutting properties in the shoreline jurisdiction. Exterior parking facilities for non-residential development shall be landscaped with vegetation in such a manner that plantings provide an effective "full-screen" within three (3) years of project completion when viewed from adjacent areas within the City's shoreline jurisdiction.

12. Recreational Development

a. Purpose

Recreational development includes passive activities, such as walking, viewing, and fishing, and facilities for active uses, such as swimming, boating, golfing, and other outdoor recreation uses. This Section applies to both public and private shoreline recreational facilities in the shoreline jurisdiction (excluding private residences) in the City.

b. Policies

1. Allow recreational development as a permitted or conditional use in all shoreline environments.
2. Give priority to recreational development for access to and use of the water.
3. Prefer water-oriented recreational development in the City's shoreline jurisdiction. Allow non-water-oriented recreational facilities as a primary use where they do not displace water-oriented uses.
4. Encourage coordination of City, state, and federal recreation planning. Recreational developments in the shoreline jurisdiction should be consistent with the growth projections and the level of service standards in both the City's Comprehensive Plan and its Parks and Recreation Plan.
5. Encourage the use of publicly owned lands for public access and development of recreational opportunities in the shoreline jurisdiction.
6. Identify and acquire properties in the shoreline jurisdiction with a potential for providing recreation or public access opportunities by lease or purchase, or through partnerships with non-profit and service organizations, and incorporated into the park and open space system.
7. Create links between existing and future shoreline parks, recreation areas, and public access points with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.

8. Design recreational activities to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
9. Ensure that recreational activities do not contribute to a net loss of ecological functions in the shoreline jurisdiction.

c. Regulations

1. Development of new private and public recreation areas shall protect existing native vegetation in the City's shoreline jurisdiction and restore vegetation impacted by development activities. Recreational development shall result in no net loss of ecological functions in the shoreline jurisdiction.
2. Water-dependent or water-related activities such as swimming, boating, and fishing, and water-enjoyment activities that benefit from waterfront scenery such as picnicking, hiking, golfing, and bicycling shall be emphasized in planning public and private (excluding residential) recreation sites in the City's shoreline jurisdiction.
3. The location, design, and operation of recreational development shall be consistent with the purpose of the environmental designation in which they are allowed.
4. All recreational developments shall make adequate provisions for the following:
    a. Public access to the shoreline edge;
    b. Non-motorized and pedestrian access;
    c. Protection and restoration of environmentally sensitive areas and ecological processes and functions in the shoreline jurisdiction;
    d. The prevention of trespass onto adjacent properties, by using, but not limited to, measures such as landscaping and fencing;
    e. Signs indicating the public's right of access in the shoreline jurisdiction, installed and maintained in conspicuous locations at the point of access and the entrance; and
    f. Buffering such development from adjacent private property or natural areas.
5. In approving recreational developments in the shoreline jurisdiction, the City's Shoreline Administrator shall ensure that the development will maintain, enhance, or restore desirable ecological features in the shoreline jurisdiction.
6. Fragile and unique areas with valuable ecological functions in the shoreline jurisdiction, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.

7. Swimming areas shall be separated from boat launch areas.
8. Public boat launching facilities shall be governed by the regulations found in SMP Chapter 5: Use Specific Regulations, Section C.4.
9. The streets serving the proposed facility shall safely handle the traffic generated by recreational activities.
10. A new or expanded recreational development or use in the shoreline jurisdiction that does not provide public access may be authorized provided the applicant has demonstrated and the City's Shoreline Administrator has determined that one (1) or more of the following provisions apply:
    a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
    b. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;
    c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
    d. Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or
    e. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and they cannot be mitigated.
11. In addition, a new or expanded recreational development in the shoreline jurisdiction or use that does not provide public access may be authorized provided that the applicant has first demonstrated and the City's Shoreline Administrator has determined that all reasonable alternatives have been exhausted, including but not limited to the following:
    a. Regulating access by such means as limiting hours of use to daylight hours;
    b. Designing separation of uses and activities, with such means as fences, terracing, hedges, and landscaping; and
    c. Providing access that is separated physically from the proposal, such as an off-site viewpoint, or a trail system.
12. Whenever the applicant demonstrates that public access cannot be provided per regulation 11 above, the City's Shoreline Administrator shall require the applicant to make an in-lieu of payment in accordance with RCW 82.02.020 as a condition of granting a permit.

13. Residential Development

a. *Purpose*

Residential development means one (1) or more buildings, structures, lots, parcels, or portions thereof, which are designed for and used or intended to be used to provide a place of abode for human beings. This includes the creation of new residential lots through land division and single-family residences and attached dwellings together with accessory uses and structures normally applicable to residential development located landward of the ordinary high water mark, including, but not limited to, swimming pools, garages, sheds, fences, and saunas. Single-family and multi-family development is limited to those underlying zones that currently allow it and subject to the requirements therein.

b. *Policies*

1. Allow residential development in all shoreline environments, except the Aquatic shoreline environment, where there are adequate provisions for utilities, circulation, and access.
2. Provide adequate shoreline setbacks from the ordinary high water mark and ample open space among residential buildings and structures to protect natural features, preserve views, and minimize use conflicts.
3. Design new residential development and subdivisions to preserve aesthetic characteristics, views, existing native shoreline vegetation in the shoreline jurisdiction, as well as control erosion, protect water quality, and minimize physical impacts to ecological functions in the shoreline jurisdiction.
4. Set standards to assure no net loss of ecological functions in the shoreline jurisdiction, taking into account the environmental limitations and sensitivity of the City's shoreline jurisdiction, the level of infrastructure and services available, and other comprehensive planning considerations.
5. Set back residential development, including appurtenant structures and uses, sufficiently from steep slopes and areas vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.
6. Prohibit new over-water residences, including floating homes.
7. Provide public access in conformance to the public access planning and this Chapter for new multi-family residential development, including the subdivision of land for more than four (4) parcels.

8. Identify single-family residences as a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
9. Protect legally established residential structures and appurtenant structures that are used for a conforming use, but that do not meet the standards of the SMP.

c. Regulations

1. Residential development is subject to the standards of the SMP and the underlying zoning regulations.
2. New over-water residences and floating homes are prohibited.
3. Uses, structures or other development accessory to residential development is allowed in the City's shoreline jurisdiction, if allowed under all other applicable standards in the SMP and the City's zoning code.
4. Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences.
5. 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.
6. Non-conforming residential buildings or structures that are modified intentionally, replaced, repaired or enlarged are subject to the requirements in SMP Chapter 6: Administration, Section J.
7. Non-conforming residential buildings or structures that are modified, replaced, or repaired following a catastrophic loss are subject to the requirements in SMP Chapter 6: Administration, Section J.
8. All additions to residential buildings or structures must comply with all standards in the SMP, including required shoreline setbacks from the ordinary high water mark.
9. Residential development shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City's Shoreline Administrator may request necessary studies by qualified professionals to determine compliance with this standard.
10. New multi-family development and residential subdivisions larger than four (4) parcels shall provide public access in conformance with SMP Chapter 4: General Regulations, Section B.6.

11. The land division process for creating new residential lots must do the following:
    a. Design, configure, and develop plats and subdivisions in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
    b. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of ecological functions in the shoreline jurisdiction.
    c. Be consistent with the applicable SMP shoreline environment designations and standards.
12. If an existing residential use conforms to the allowed use table in SMP Chapter 5.B., but does not conform to the development standards in SMP Chapter 5.C., the existing residential use may be enlarged or expanded if the extent of the non-conformity is not increased.

14. Signs

a. Purpose

A sign is defined as a device of any material or medium, including structural component parts, which is used for advertising, identification, or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold on or off-premises.

b. Policies

1. Allow signs as a permitted use in all shoreline environments except the Aquatic shoreline environment.
2. Design and place signs to be compatible with the aesthetic quality of the existing shoreline jurisdiction and adjacent land and water uses.
3. Do not block or otherwise interfere with visual access to the water or the shoreline jurisdiction with signs.

c. Regulations

1. Signs shall comply with the City's sign regulations in WRMC Title 19 – Signs (2000).
2. Sign plans and designs shall be submitted for review and approval at the time of any shoreline permit application submittal.

3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access within the City's shoreline jurisdiction.

15. Transportation Facilities

a. Purpose

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, trails, heliports, and other related facilities. In the City, these uses account for a minimal percentage of the City's shoreline jurisdiction land inventory. However, the impact of these facilities on ecological functions in the shoreline jurisdiction can be substantial.

b. Policies

1. Allow transportation facilities as a permitted or conditional use in all shoreline environments.
2. Exempt normal operation and maintenance of all transportation facilities in the City's shoreline jurisdiction.
3. Minimize construction of new transportation facilities in the City's shoreline jurisdiction and allow when necessary for the support of permitted activities in the shoreline jurisdiction.
4. Allow expansion of existing transportation facilities if such facilities are found to be in the public interest.
5. Encourage joint use of transportation corridors within the City's shoreline jurisdiction for roads, utilities, and motorized and non-motorized forms of transportation, where feasible.
6. Acquire and develop physical and visual public access to the shoreline edge where topography, view, and natural features warrant when new transportation development occurs in the shoreline jurisdiction.
7. Minimize new stream and river crossings associated with transportation. Where necessary, design culverts or bridges to provide for stream and river functions such as fish passage and accommodate the flow of water, sediment, and debris during storm events.

c. Regulations

1. New transportation facilities in the City's shoreline jurisdiction shall be minimized and allowed only when necessary for the support of permitted activities in the shoreline jurisdiction.

2. All proposed transportation facilities must demonstrate how they have been planned, located, and designed where routes will have the least possible adverse effect on unique or fragile ecological features in the shoreline jurisdiction.
3. Development of transportation facilities shall result in no net loss of ecological functions in the shoreline jurisdiction or adversely impact existing or planned water-dependent uses. Mitigation shall be provided as necessary to meet this requirement.
4. Any road expansion affecting streams, rivers, and lakes shall be designed to allow fish passage and minimum impact to habitat.
5. Expansion of existing transportation facilities within the City's shoreline jurisdiction shall be allowed when the proponent demonstrates that:
    a. No alternative route is feasible;
    b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and
    c. The roadway is found to be in the public interest.
6. New stream and river crossings associated with transportation uses shall be minimized in number and total area affected in the shoreline jurisdiction (e.g. perpendicular crossings).
7. Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the City's shoreline jurisdiction.
8. Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to the shoreline jurisdiction is intended.
9. Circulation system plans within the City's shoreline jurisdiction shall include systems for pedestrian, bicycle, and public transportation where appropriate.
10. Streets within the City's shoreline jurisdiction shall be designed with the minimum pavement area required.

16. Utilities (Primary)

a. Purpose

Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, and communications. Utilities in the SMP are divided into primary and accessory based on type and scale.

The provisions of this Section apply to primary utility use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and

mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

b. Policies

1. Allow primary utilities as a conditional use in all shoreline environments.
2. Locate utility production and processing facilities and transmission facilities outside of the City's shoreline jurisdiction unless no other feasible option exists.
3. Require that the design, location, and maintenance of primary utilities assure no net loss of ecological functions.
4. Require that primary utilities be located in existing rights-of-ways whenever possible and encourage joint use of rights-of-way and corridors.
5. Prohibit solid waste disposal activities and facilities in the shoreline jurisdiction.
6. Avoid locating primary utilities in environmentally sensitive areas unless no feasible alternatives exist.
7. Locate primary utility facilities and corridors to protect scenic views in the City's shoreline jurisdiction.

c. Regulations

1. Utility production and processing facilities and transmission facilities shall be located outside of shoreline jurisdiction unless no other feasible option exists.
2. Primary utilities shall be located landward of the ordinary high water mark unless such location is not feasible or would result in potentially greater environmental impacts.
3. Solid waste disposal sites and facilities are prohibited in the City's shoreline jurisdiction.
4. Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas in the shoreline jurisdiction. Development of primary utility facilities shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement.
5. Primary utility development shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

6. Primary utility development Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in the shoreline jurisdiction. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
7. Existing primary utilities shall not be allowed to justify more intense development.
8. Where major primary utility facilities must be placed in the shoreline jurisdiction, the location, and design shall be chosen so as not to destroy or obstruct scenic views.
9. Primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense "full screen."
10. Clearing of vegetation for the installation or maintenance of primary utilities shall be kept to a minimum and upon project completion; any disturbed areas shall be restored to their pre-project condition.

17. Utilities (Accessory)

a. Purpose

Utilities are divided into accessory and primary with accessory meaning utilities that affect small-scale distribution services connected directly to the uses in the City's shoreline jurisdiction. For example, power distribution, telephone, cable, water, and sewer service lines, stormwater collection, and conveyance, are considered as accessory utilities for shoreline uses. They are covered in this Section because they concern all types of development and have the potential of affecting the ecological condition and visual quality of the City's shoreline jurisdiction.

b. Policies

1. Allow accessory utilities as permitted or conditional use in all shoreline environments.
2. Require that the design, location, and maintenance of accessory utilities assure no net loss of ecological functions.
3. Locate accessory utility outside of the City's shoreline jurisdiction to the maximum extent possible. When accessory utility lines require a location in the shoreline jurisdiction, they should be placed underground, where feasible.

4. Design and locate accessory utility facilities in existing rights-of-ways whenever possible to preserve the natural landscape and ecology in the shoreline jurisdiction, and minimize conflicts with present and planned land uses.

c. Regulations

1. Through coordination with the City, accessory utility developments shall provide for compatible, multiple uses of sites and rights-of-way. Such uses in the shoreline jurisdiction include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.
2. In the shoreline jurisdiction, accessory utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.
3. Accessory utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Development of utility facilities shall result in no net loss of ecological functions in the shoreline jurisdiction. Mitigation shall be provided as necessary to meet this requirement.
4. Clearing for the installation or maintenance of accessory utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions.
5. Existing accessory utilities shall not be allowed to justify more intense development.

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Chapter 6: **Administration**

A. Purpose

The purpose of this Chapter is to provide provisions for the administration and enforcement of a permit system that shall implement the SMA; Ecology's regulations and guidelines adopted as Chapters 173-26 and 173-27 WAC; and the SMP, together with amendments and/or additions thereto.

Issuance of any shoreline permit or letter of exemption from the City does not obviate requirements for other federal, state, and county permits, procedures, and regulations.

B. Permit Processing – General

1. Shoreline Administrator

a. The City's Shoreline Administrator shall be responsible for the administration of the permit system pursuant to the requirements of the SMA and regulations adopted as part of the SMP as it pertains to the City. This shall include, but not be limited to, determinations of whether a development requires a shoreline substantial development permit, variance, conditional use permit, and/or is exempt.

b. The City's Shoreline Administrator shall ensure that administrative provisions are in place to make sure that SMP permit procedures and enforcement are conducted in a manner consistent with relevant constitutional limitations on regulation of private property.

c. The City's Shoreline Administrator and Planning Commission (or Hearing Examiner) may recommend conditions to the City Council for the approval of permits as necessary to ensure consistency of the project with the SMA and the SMP.

d. As required by RCW 36.70B.110(11), the City shall adopt procedures for administrative interpretation of its SMP. As part of developing and adopting procedures for administrative interpretation of the SMP, the City's Shoreline Administrator shall require consultation with Ecology. This is to insure that any formal written interpretations are consistent with the purpose and intent of the SMP and the applicable guidelines. Pursuant to WAC 173-26-140, any formal written interpretations of shoreline policies or regulations shall be submitted to Ecology for

review. An interpretation of the SMP will be enforced as if it is part of this code. Formal interpretations shall be kept on file by the City and shall be available for public review, and shall periodically be incorporated into the SMP during required update processes.

e. The City's Shoreline Administrator shall determine if the application is complete based upon the information required by this Chapter.

2. Provisions Applicable to All Shoreline Permits

a. Unless specifically exempted by statute, all proposed uses, activities, and development occurring within the City's shoreline jurisdiction must conform to the SMA, its implementing rules, and the SMP, whether or not a permit is required.

b. No authorization to undertake use or development on shorelines of the state shall be granted by the City, unless, upon review, the use or development is determined to be consistent with the policy and provisions of the SMA and the SMP.

c. RCW 36.70A.480 governs the relationship between SMPs and development regulations to protect critical areas that are adopted under RCW Chapter 36.70A.

d. Applications for shoreline permits shall be processed in accordance with the applicable provisions of WRMC Title 14 – Administration of Development Regulations (2012); if, where the provisions of WRMC Title 14 and the administration and permitting provisions of the SMP conflict, the provisions of the SMP shall apply.

e. Applications for shoreline substantial development permits, variances, conditional use permits shall be processed as Type IV permits as provided for in WRMC Chapter 14.01 – Types of Project Permit Applications (2012).

f. The applicant shall meet all of the review criteria for all development as listed in WAC 173-27-140.

g. A shoreline substantial development shall not be undertaken within the jurisdiction of the SMA unless a shoreline substantial development permit has been obtained, the appeal period has been completed, and any appeals have been resolved.

h. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of the SMP.

i. All purchasers or transferees of property shall comply with the provisions of the SMA, the SMP, and any shoreline substantial development permit, conditional use permit, variance, permit revision, or letter of exemption.

3. Application Requirements

Applications for shoreline permits and/or letters of exemptions shall be made on forms provided by the City's Shoreline Administrator. Applications shall be substantially consistent with the information required by WAC 173-27-180 including but not limited to the following:

a. Completed intake form from WAC 173-27-990, Appendix A – SMA Permit Data Sheet and Transmittal Letter.

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

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

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

e. Location of the Property. This shall include, at a minimum, the property address and identification of the section, township, and range to the nearest quarter, quarter section, or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

f. Identification of the SMA water body the proposal affects.

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

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

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

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

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

   2) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location. If for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be

located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

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

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

5) A general description of the character of vegetation found on the site.

6) The dimensions and locations of all existing and proposed structures and improvements including but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

7) Where applicable, landscaping plans for the project.

8) Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project consistent with the requirements of this Section.

9) Quantity, source, and composition of any fill material that is placed on the site, whether temporary or permanent.

10) Quantity, composition, and destination of any excavated or dredged material.

11) A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties.

12) Where applicable, a depiction of the impacts to views from existing residential development and public areas.

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

C. Application – Notices

The following is applicable for the notice requirements all notices related to actions under the SMP:

1. The City's Shoreline Administrator shall give notice of the application in accordance with the applicable provisions of WRMC Chapter 14.03 – Public Notice (2007), no less than 30 days prior to permit issuance.
2. When a public hearing is required, the notices shall include a statement that any person desiring to present his/her views may do so orally or in writing at the public hearing, or may submit written comments prior to the public hearing which will be provided to the Planning Commission (or Hearing Examiner) or City Council at the public hearing.
3. The public notice shall also state that any person interested in the Planning Commission (or Hearing Examiner) or City Council's action on an application for a permit may notify the City's Shoreline Administrator of his/her interest in writing within 30 days of the last date of publication of the notice. Such notification to the City's Shoreline Administrator or the submission of views to the Planning Commission (or Hearing Examiner) or City Council shall entitle said persons to a copy of the action taken on the application.

D. Shoreline Substantial Development Permits

The following is applicable for all shoreline substantial development permits:

1. A shoreline substantial development permit shall be granted by the City Council after a recommendation has been given by the Planning Commission (or Hearing Examiner) only when the development proposed is consistent with the following:
   a. Goals, objectives, policies and use regulations of the SMP;
   b. The City's Comprehensive Plan, the WRMC, and associated regulations; and
   c. The policies and regulations of the SMA as well as the associated guidelines (Chapter 90.58 RCW; Chapters 173-26 and 173-27 WAC).
2. The applicant shall meet all of the review criteria for a shoreline substantial development permit as listed in WAC 173-27-150. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.
3. An applicant for a shoreline substantial development permit, who wishes to request a shoreline variance and/or shoreline conditional use permit, shall submit the shoreline

variance and/or conditional use permit application(s) and the shoreline substantial development permit application simultaneously.

E. Shoreline Conditional Use Permits

The following is applicable for all shoreline conditional use permits:

1. Pursuant to WAC 173-27-210 and WAC 173-27-160, the criteria below shall constitute the minimum criteria for review and approval of a shoreline conditional use permit. Uses classified as conditional uses by the regulations of the SMP, may be authorized; provided, that the applicant can demonstrate all of the following:
    a. That the proposed use will be consistent with the policies of RCW 90.58.020, the policies of the SMP, the City's Comprehensive Plan and other applicable plans, programs and/or regulations;
    b. That the proposed use will not interfere with the normal public use or access to public shorelines;
    c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with uses planned for the area under the City's Comprehensive Plan and SMP;
    d. That the proposed use will cause no unreasonably adverse effects to the City's shoreline jurisdiction, will not result in a net loss of ecological functions, and will not be incompatible with the environment designation or zoning classification in which it is to be located;
    e. That the public interest suffers no substantial detrimental effect;
    f. That the proposed use is in the best interest of the public health, safety, morals or welfare; and
    g. That consideration of cumulative impacts resultant from the proposed use has occurred and has demonstrated that no substantial cumulative impacts are anticipated, consistent with WAC 173-27-160(2).
2. Other uses, which are not classified or set forth in the 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 the SMP.
3. Uses, which are specifically prohibited by the SMP, may not be authorized.
4. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to

the approval of permits as necessary to assure consistency of the proposal with the above criteria.

5. The decision of the City Council shall be the final decision of the City. Ecology shall be the final authority authorizing a shoreline conditional use permit consistent with WAC 173-27-200.

F. Shoreline Variances

The following is applicable for all shoreline variances:

1. The purpose of a shoreline variance is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the SMP, and where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.
2. Construction pursuant to this shoreline variance shall not begin nor can construction be authorized except as provided in RCW 90.58.020.
3. Pursuant to WAC 173-27-210 and WAC 173-27-170, the criteria below shall constitute the minimum criteria for review and approval of a shoreline variance. A shoreline variance for development that will be located landward of the ordinary high water mark (per RCW 90.58.030(2)(b) definition), and/or landward of any wetland as defined in RCW 90.58.030(2)(h) may be authorized, provided the applicant can demonstrate all of the following:
    a. That the strict requirements of the bulk, dimensional or performance standards set forth in the SMP preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the SMP;
    b. That the hardship described above 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 SMP, and not, for example, from deed restrictions or the applicant's own actions;
    c. That the design of the project will be compatible with other permitted activities within the area and with uses planned for the area under the City's Comprehensive Plan and SMP and will not cause adverse impacts to the City's shoreline jurisdiction;
    d. That the shoreline variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the area, and will be the minimum necessary to afford relief; and
    e. That the public interest will suffer no substantial detrimental effect;

4. Shoreline variances for development that will be located either waterward of the ordinary high water mark or any wetland as defined in RCW90.58.030(2)(h) may be authorized, provided the applicant can demonstrate all the criteria stated above as well as the following:
    a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes all reasonable use of the property not otherwise prohibited by the SMP; and
    b. That the public rights of navigation and use of the City's shoreline jurisdiction will not be adversely affected by the granting of the shoreline variance.
5. In the granting of all shoreline variance approvals, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline variances were granted to other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW90.58.020 and shall not cause substantial adverse effects to the City's shoreline environment or result in a net loss of ecological functions.
6. Shoreline variances from the use regulations of the SMP are prohibited.
7. The City's Shoreline Administrator and the Planning Commission (or Hearing Examiner) may forward recommended conditions to the City Council, who may attach conditions to the approval of the variance as necessary to assure consistency of the proposal with the above criteria.
8. The decision of the City Council shall be the final decision of the City. Ecology shall be the final authority authorizing a shoreline variance consistent with WAC 173-27-200.

G. Shoreline Letters of Exemption

The following is applicable for all shoreline letters of exemption:

1. A letter of exemption shall be required for a development that is exempt from the requirements for a shoreline substantial development permit.
2. For exempt development proposals in shoreline jurisdiction subject to review, approval, and permitting by a federal or state agency, City's Shoreline Administrator shall prepare a letter of exemption. The letter of exemption shall be addressed to the applicant, the federal or state permitting agency, and Ecology. The letter of exemption shall indicate the specific exemption provisions from WAC 173-27-040 that is being applied to the development and provide a summary of the analysis demonstrating consistency of the project with the SMA and the SMP.

3. To qualify for a letter of exemption, the proposed use, activity, or development must meet all of the requirements for an exemption as described in WAC 173-27-040. Exemptions are listed in WAC 173-27-040.

4. Letter of exemption. Some projects conducted on shorelines of the state also require review and approval by federal agencies. Ecology is designated as the coordinating agency for the state with regard to permits issued by the U.S. Army Corps of Engineers. The following is intended to facilitate Ecology's coordination of City actions, with regard to exempt development, with federal permit review.

    a. The City's Shoreline Administrator shall prepare a letter of exemption, and transmit a copy to the applicant and Ecology whenever a development is determined by the City's Shoreline Administrator to be exempt from the shoreline substantial development permit requirements and the development is subject to one (1) 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.

    b. Ecology will be notified prior to issuance of the letter of exemption. The letter of exemption 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 Shoreline Administrator analysis of the consistency of the project with the SMP and the SMA. The letter of exemption granted may be conditioned to ensure that the activity is consistent with the SMA and the SMP.

    c. Before determining that a proposal is exempt, the City's Shoreline Administrator may conduct a site inspection and/or request additional information to ensure that the proposal meets the exemption criteria.

    d. The City's Shoreline Administrator may specify other developments not described within subsection (a) of this Section as requiring a letter of exemption prior to commencement of the development.

5. Exempt proposals shall be consistent with the goals and policies of the SMP.

a. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one (1) or more of the listed exemptions may be granted exemptions from the substantial development permit process.

b. Exempt proposals shall be consistent with the goals, policies, and provisions of the SMA and the SMP. A letter of exemption from the substantial development permit process is not an exemption from compliance with the SMA or the SMP, or from any other regulatory requirements.

c. A development or use that is listed as a shoreline conditional use pursuant to the SMP or is an unlisted use, must obtain a shoreline conditional use permit even though the development or use does not require a substantial development permit.

d. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the SMP, such development or use can only be authorized by approval of a shoreline variance.

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

f. 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.

g. The City's Shoreline Administrator may attach conditions to letters of exemption as necessary to assure consistency of the proposal with the SMA and the SMP.

H. Public Hearing and Decision

1. Burden of Proof for Development Conformance

a. The burden of proving that the proposed development is consistent with the criteria set forth in this Chapter, the SMP, as well as the requirements of the SMA shall be on the applicant.

2. Public Hearing Process

a. In accordance with the processing of Type IV permits as provided for in WRMC Title 14 – Administration of Development Regulations (2012), the Planning Commission (or Hearing Examiner) shall hold at least one (1) open record public hearing on each application for a shoreline substantial development permit, variance, or conditional use permit in the shoreline jurisdiction in the City. The City Council will make the final decision at a closed record hearing.

b. If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the Planning Commission (or Hearing Examiner) may, before adjournment or recess of such matters under consideration, publicly announce the time and place of the continued hearing and no further notice is required.

c. When the Planning Commission (or Hearing Examiner) makes a recommendation to the City Council, the Planning Commission (or Hearing Examiner) shall make and enter written findings from the record and conclusions thereof, which support the recommendation. The findings and conclusions shall set forth the manner in which the recommendation is consistent with the criteria set forth in the SMA and the City's regulations.

d. When the City Council renders the final decision, the City Council shall make and enter written findings from the record and conclusions thereof, which support the decision. The findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in the SMA and the City's regulations.

3. Notice of Decision

a. The City's Shoreline Administrator shall notify the following persons in writing of the City Council's final approval, conditional approval, or disapproval of a shoreline substantial development permit, variance, or conditional use permit within fourteen (14) days of the City Council's final decision:

1) The applicant;

2) Ecology;

3) The State Attorney General;

4) Any person who has provided written or oral comments on the application at the public hearing; and

5) Any person who has written the City's Shoreline Administrator requesting notification.

4. Development Start

Development pursuant to a shoreline substantial development permit, variance, or conditional use permit shall not be authorized until twenty-one (21) days from the date the City's Shoreline Administrator files the approved shoreline substantial development permit, conditional use permit, or variance with Ecology and Attorney General, or until all review proceedings initiated within twenty-one (21) days of the date of such filing have been terminated. Conditional use permits and variances are subject to Ecology review and approval before the twenty-one (21) day period starts.

5. Appeals of Decisions

Any person aggrieved by the granting or denying of a shoreline substantial development permit, variance, or conditional use permit, a letter of exemption, or by the rescinding of a permit pursuant to the provisions of the SMP, may seek review from the State of Washington Shorelines Hearings Board. A request for review may done by filing a petition for review with the board within twenty-one (21) days of the date of filing of the final decision, as defined by RCW 90.58.140(6) and by concurrently filing copies of such request with the City Clerk, Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and WAC Chapter 461-08.

I. Time Requirements and Revisions

1. Time Requirements for Shoreline Permits

a. The time requirements of this Section shall apply to all shoreline substantial development permits and to any development authorized pursuant to a shoreline variance or conditional use permit authorized by the SMP.

b. Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a shoreline substantial development permit, variance, or conditional use permit. However, the City may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the shoreline substantial development permit, variance, or conditional use permit and to Ecology.

c. Authorization to conduct development activities shall terminate five (5) years after the effective date of a shoreline substantial development permit, variance, or conditional use permit. However, the City may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

d. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The permit time periods in subsections (b) and (c) of this Section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

e. Revisions to permits, pursuant to the provisions of WAC 173-27-100, may be authorized after original permit authorization has expired; provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

f. The City's Shoreline Administrator shall notify Ecology in writing of any change to the effective date of a permit, as authorized by this Section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit, other than those authorized by RCW 90.58.143 and this Chapter, as amended shall require a new permit application.

2. Revisions of Shoreline Permits

a. A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the SMP, and/or the SMA. Changes, which are not substantive in effect, do not require approval of a revision. The enforcement procedures and penalties contained in WAC 173-27-100 are hereby incorporated by reference.

b. When an applicant desires to revise a shoreline permit, the applicant must submit detailed plans and text describing the proposed changes. If the City's Shoreline Administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with the SMA, the City's Shoreline Administrator may approve the revision. "Within the scope and intent of the original permit" means all of the following:

1) No additional over-water construction is involved,

2) Ground area coverage and height is not increased more than ten percent (10%);

3) Additional structures do not exceed a total of two hundred fifty (250) square feet or ten percent (10%), whichever is less;

4) The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the SMP;

5) Additional landscaping is consistent with conditions (if any) attached to the original permit;

6) The use authorized pursuant to the original permit is not changed; and

7) No substantial adverse environmental impact will be caused by the project revision.

c. If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new shoreline substantial development permit must be submitted. If the revision involves a shoreline variance or conditional use, which was conditioned by Ecology, the revision also must be reviewed and approved by Ecology under the SMA. The City or Ecology decision on revision to the shoreline permit may be appealed within twenty-one (21) days of such decision, in accordance with the SMA.

d. Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's own risk until the expiration of the appeals deadline.

e. Revisions to permits under WAC 173-27-100 shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

J. Non-Conforming Development

1. "Non-conforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP. Nonconforming use and development standards not addressed in RCW 90.58.270(5), 90.58.620, and not addressed by the SMP are found in WAC 173-27-080. In the event of a conflict between WAC 173-27-080 and the standards contained in the WRMC, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the City's Shoreline Administrator.

2. Nonconforming development is a shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP or policies of the SMA. In such cases, the following standards shall apply:

   a) Nonconforming uses and structures may continue provided that it is not enlarged or expanded;

   b) A nonconforming use or structure which is moved any distance must be brought into conformance with the SMA and the SMP;

   c) If a nonconforming structure is damaged to an extent not exceeding fifty percent (50%) replacement cost of the nonconforming structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one (1) year of the date of damage. Single-family nonconforming development may be replaced if damaged to

one hundred percent (100%), if the restoration is completed within three (3) years of the date of damage;

d) If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two (2) year period, any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire;

e) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed;

f) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the SMA and the SMP, but which does not conform to the present lot size or density standards may be developed so long as such development conforms to all other requirements of the SMA and the SMP;

g) A use which is listed as a conditional use but which existed prior to adoption of the SMP for which a shoreline conditional use permit has not been obtained shall be considered a nonconforming use; and

h) A structure for which a shoreline variance has been issued shall be considered a legal nonconforming structure and the requirements of this Section shall apply as they apply to preexisting nonconformities.

K. Enforcement and Penalties

1. Enforcement

a. The provisions of WRMC Chapter 17.81 – Administration and Enforcement (2007) relating to Enforcement shall apply to this Chapter.

b. The City's Shoreline Administrator or a designated representative shall enforce all provisions of the SMP. For such purposes, the City's Shoreline Administrator or a designated representative shall have the power of a police officer.

c. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action; the benefits that accrue to the violator; and the cost of obtaining compliance may also be considered.

2. Penalty

Any person found to have willfully engaged in activities in the city's shoreline jurisdiction in violation of the SMA or in violation of the SMP or rules or regulations adopted pursuant thereto shall be subject to the penalty provisions of WRMC.

3. Public and Private Redress

a. Any person subject to the regulatory program of the SMP who violates any provision of the SMP 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 may sue for damages under this Section on behalf of the City.

b. Private persons shall have the right to sue for damages under this Section 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 provisions 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 attorneys' fees and costs of the suit to the prevailing party.

4. Delinquent Permit Penalty

A person applying a permit after commencement of the use or activity may be required, at the discretion of the City to pay a delinquent permit penalty.

L. Shoreline Master Program – Administration

1. Shoreline Master Program Review

The following guidelines are to be used for review of the SMP:

a. The SMP shall be reviewed periodically and amendments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations.

b. The City’s established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to document the cumulative effect of all project review actions in the city’s shoreline jurisdiction. It will also be used to evaluate periodically the effectiveness of the SMP in achieving no net loss of ecological functions in the shoreline jurisdiction with respect to both permitting authorized developments and letters of exemption.

This process may involve a joint effort by the City, state resource agencies, affected Native American tribes, and other parties.

c. As part of any required SMP update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.

d. The SMP review and update process shall be consistent with the requirements of WAC Chapter 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

e. The City should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. Related to the constitutional takings limitation, a process established for this purpose is set forth in a publication entitled, "*State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property*," first published in February 1992.

2. Shoreline Master Program Amendments

The following guidelines are to be used for any amendments to the SMP:

a. Any of the provisions of the SMP may be amended as provided for in RCW 90.58.120, RCW 90.58.200, and WAC Chapter 173-26. Any amendments shall also be subject to the procedures in WRMC Title 14 – Administration of Development Regulations (2012).

b. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

3. Severability

If any provisions of the SMP, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of the SMP, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected

4. Liberal Construction

Pursuant to RCW 90.58.900, the SMA is exempted from the rule of strict construction. Therefore, the SMA and the SMP shall be liberally construed to give full effect to the purposes, goals, objectives, and polices for which the SMA and the SMP have been enacted and adopted.

5. Conflict of Provisions

Should a conflict occur between the provisions of the SMP or between the SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in the SMP.

6. Effective Date

The effective date of this SMP is [XXXX].

Chapter 7: **Definitions**

A. Unlisted Words or Phrases

Any word or phrase not defined in SMP Chapter 7: Definitions that is called into question when administering the SMP shall be defined utilizing the SMA and its implementing rules.

The Shoreline Administrator may obtain secondary definition sources from one (1) of the following sources:

a. City of West Richland Municipal Code (WRMC).
b. Any City resolution, ordinance, policy, or regulation.
c. The most applicable statute or regulation from the state of Washington.
d. Legal definitions generated from case law or provided within a law dictionary.
e. The common dictionary.

B. Definitions

Accessory use – A use incidental, related and clearly subordinate to the principal use of a lot or main building. An accessory use is only located on the same lot as a permitted principal use.

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities. In all cases, the use of agriculture related terms should be consistent with the specific meanings provided in WAC 173-26-020 and RCW 90.58.030 and .065.

Applicant – An individual, partnership, corporation, association, organization, cooperative, public or Municipal Corporation, or agency of the state or local governmental unit, however designated that proposes an activity related to the shoreline jurisdiction. The applicant is the owner of the land on which the proposed activity would be located, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

Appurtenance – A building, structure, or development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and of the perimeter of any wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drain field) and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Refer to WAC 173-27-040(2)(g).

Aquaculture – The culture or farming of fish, shellfish, or other aquatic plants and animals dependent on the use of the water area.

Aquifer – A subsurface, saturated geologic formation that produces, or is capable of producing, a sufficient quantity of water to serve as a private or public water supply.

Aquifer recharge areas – Those areas that serve as critical groundwater recharge areas and that are highly vulnerable to contamination from intensive land uses within these areas.

Associated wetlands – Those wetlands that are in proximity to and either influence, or are influenced by a lake, river, or stream subject to the SMA. Refer to WAC 173-27-030(1).

Best Management Practices (BMPs) – BMPs are the utilization of methods, techniques or products which have been demonstrated to be the most effective and reliable in minimizing environmental impacts. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater run-off and in receiving waters.

Boat launch – Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boating facilities – Generally refer to structures providing the boating public recreational opportunities on the waters of the state including but not limited to marinas, public docks, buoys, etc. Boating facilities does not refer to docks that serve four (4) or fewer single-family residences.

Building – Any structure having a roof supported by columns, posts, or walls for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. Manufactured homes are considered buildings.

Bulkhead – A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

Channel – An open conduit for water either naturally or artificially created, but not including artificially created irrigation, return flow, or stock watering channels.

Channel Migration Zone (CMZ) – The dynamic physical processes of rivers, including the movement of water, sediment, and wood, which cause the river channel in some areas to move laterally, or "migrate," over time. This is a natural process in response to gravity and topography and allows the river to release energy and distribute its sediment load. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone (CMZ) or the meander belt.

City – The City of West Richland.

Clearing – The destruction, disturbance or removal of logs, scrub-shrub, stumps, trees or any vegetative material by burning, chemical, mechanical or other means.

Commercial development – Retail, wholesale, service, trade or other business activities.

Compensatory mitigation – Mitigation for losses or impacts resulting from alteration of a protected critical area and/or its buffer. It includes, but is not limited to, creation, enhancement, and restoration.

Comprehensive Plan – Comprehensive Plan means the document, including maps adopted by the City Council in accordance with applicable state law.

Conditional use – A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable SMP. Refer to WAC 173-27-030(4).

Contaminant – Any chemical, physical, biological, or radiological material not naturally occurring and introduced into the environment by human action, accident, or negligence.

Critical areas – Include the following areas and ecosystems: wetlands; areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; flood hazard areas; and geologically hazardous areas.

Critical fish and wildlife habitat conservation areas – Those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife, and natural vegetation, including waters of the state. Critical fish and wildlife habitat conservation areas are to be managed for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but does mean cooperative and coordinated planning to accomplish the purpose stated. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.

Dedication – The deliberate appropriation of land by an owner for public use or purpose, reserving no other rights than those that are compatible with the full exercise and enjoyment of the public uses or purpose to which the property has been devoted.

Designated wetland – Those lands identified on the City's critical area wetland map.

Development – A use consisting of the construction or exterior alteration of buildings or 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 of the state subject to the SMA at any state of water level (RCW 90.58.030(3)(d)).

Development regulations – The controls placed on development or land uses by the City, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of an SMP other than goals and policies approved or adopted under RCW 90.58, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

Dredged material disposal – Depositing of dredged materials on land or into water bodies. The purpose may be to create additional lands, to dispose of the by-products of dredging, or to enhance or remedy an environmental condition.

Dredging – Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for cleanup of polluted sediments.

Dwelling unit – One (1) or more rooms designed for or occupied by one (1) family for sleeping and living purposes and containing kitchen, sleeping and sanitary facilities for use solely by one (1) family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. Includes apartments, hotel rooms available on a month-to-month basis with kitchen facilities, designated manufactured and group homes, but excludes recreational vehicles.

Earth/earth material – Naturally occurring rock, soil, stone, sediment, organic material, or combination thereof.

Easement – Land which has specific air, surface or subsurface rights conveyed for use by someone other than the owner of the subject property or to benefit a property other than the subject property.

Ecological functions – The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecology – The Washington State Department of Ecology.

Emergency – An unanticipated and imminent threat to public health, safety, or the environment, which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3)(e)(iii) and WAC 173-27-040(2)(d)).

Endangered Species Act (ESA) – A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Environmental impacts – Means the effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in SEPA. Refer to WAC 197-11-600 and WAC 197-11-444.

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, floodwater 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.

Environments, (shoreline environments) – Designations given specific areas in the shoreline jurisdiction based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a SMP.

Environmentally sensitive areas – Those areas with especially fragile biophysical characteristics and/or with significant environmental resources as identified by the City or by a scientifically documented inventory accomplished as part of the SEPA/NEPA process or other recognized assessment. Environmentally sensitive areas include, but are not limited to, aquifer recharge areas, wildlife habitat areas, fish breeding, rearing or feeding areas, flood hazard areas, geologically hazardous areas (e.g., steep, unstable slopes), wetlands (i.e., marshes, bogs, and swamps), rivers, and streams.

Erosion – The wearing away of the earth's surface because of the movement of wind, water, or ice.

Erosion hazard areas – Those areas that are highly vulnerable to rapid erosion due to natural characteristics, including vegetative cover, soil texture, steep slope, or other factors induced by human activity. Those areas that contain soils which, according to the United States Department of Agriculture Soil Conservation Service Soil Survey for Benton County Area (July 1971), may experience severe to very severe water erosion are included within this definition.

Excavation – The mechanical removal of earth material or fill.

Exempt – Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the shoreline substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the SMA and the SMP. Shoreline variances and/or conditional use permits may also still be required even though the activity does not need a shoreline substantial development permit (WAC 173-27-040).

Existing and ongoing agricultural activities – Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including but not limited to operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and normal operation, maintenance or repair of existing serviceable structures, facilities or improved areas. Activities that bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use or has lain idle both more than five years and so long that modifications to the hydrological regime are necessary to resume operations, unless the idle land is registered in a federal or state soils conservation program.

Fair market value – "Fair market value" of a development is 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 (WAC 173-27-030(8)).

Federal Emergency Management Administration (FEMA) – The branch of the federal government responsible for responding to emergencies such as flood events. FEMA administers the National Flood Insurance Program, develops floodplain and floodway maps, and enforces federal regulations pertaining to flood hazard management.

Feasible – An action, such as a development project, mitigation, or preservation requirement, meeting all of the following conditions:

a. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

b. The action provides a reasonable likelihood of achieving its intended purpose; and

c. The action does not physically preclude achieving the project's primary intended legal use.

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

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

Flood hazard areas – Those areas within the city of West Richland, which are determined to be at risk of having a one percent or greater chance of experiencing a flood in any one year (100-year floodplain), with those areas defined and identified on the Federal Emergency Management Administration (FEMA) flood insurance rate maps for the city of West Richland.

Flood hazard management – A program or major project carried out on a single parcel or coordinated on a series of parcels for the primary purpose of preventing or mitigating damage due to flooding. Flood hazard management projects or programs may employ physical and/or regulatory controls.

Floodplain – Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream-derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

Floodway – means the area, as identified in a SMP, that either: (i) has been established in FEMA flood insurance rate maps or floodway maps; or (ii) consists of those portions of the area 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 floodwaters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Forest practices – Any activity conducted on or directly pertaining to forestland, and the growing, processing or harvesting of timber. These activities are generally reviewed by the

WDNR pursuant to RCW 76.09. For the purposes of this SMP, this definition does not include activities such as tree marking and surveying.

Geologically hazardous areas – Those areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, may not be suited to commercial, residential, or industrial development, consistent with public health or safety concerns. Some geological hazards can be reduced or mitigated by engineering, design, or modified practices so that the risks to health and safety are acceptable. Geologically hazardous areas are designated in the city of West Richland as erosion hazards, landslide hazards, or seismic hazards, and are further defined in WAC 365-190-080(4) and this title.

Grading – The movement or redistribution of the soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land..

Habitat – The environment(s) where a plant or animal naturally or normally lives.

Habitat management plan – A report prepared by a qualified wildlife biologist, as specified in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.3.c.

Habitats of local importance – Include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration, such as cliffs, talus, and wetlands. Habitats of local importance to West Richland are identified in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section R.1.b.

Hazardous substance – Any material that exhibits any of the characteristics or criteria of hazardous waste, inclusive of waste oil and petroleum products, and which further meets the definitions of "hazardous waste" pursuant to Chapter 173-303 WAC.

Historic resources – Those historic or cultural properties or items that fall under the jurisdiction of the DAHP.

Hydric soils – Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-035).

Impervious surface – The area of a lot that is covered by impervious surfaces, measured by percentage. Any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming

pools, paved or graveled roads and walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

In-stream structure – A structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow.

Landslide – An abrupt downslope movement of soil, rock, or ground surface material.

Landslide hazard area – Those areas that are susceptible to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. Examples may include, but are not limited to, those listed in WAC 365-190-080(4)(d). The city defines landslide hazard areas to include all slopes that have a slope stability factor of less than one and one-half for static conditions, or less than a one and two-tenths for dynamic conditions, as calculated by a qualified geotechnical engineer.

Landward – Toward dry land away from the ordinary high water mark.

May – "May" means the action is acceptable, provided it conforms to the provisions of the SMP.

Mining – The removal of naturally occurring materials from the earth for economic uses pursuant to RCW 78.44 and WAC 332-18.

Mitigation or mitigation sequencing – The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020(30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

a. Avoiding the impact all together 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 environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

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

f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Mixed-use projects – Developments that combine water-dependent/water-related uses with water-enjoyment uses and/or non-water-oriented uses.

Must – A mandate; the action is required.

Native vegetation – Vegetation comprised of plant species that are indigenous to an area.

No Net Loss – Ecology's SMP Guidelines adopted in 2003 set forth the obligation to assure that no net loss of ecological functions will be achieved within the SMP's planning horizon by implementing updated SMP policies and regulations. The no-net-loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from planned for and permitted new development. This means that the existing condition of shoreline ecological functions should remain the same, and should be improved because of restoration, as updated SMPs are implemented over time. The resulting impacts of planned for and appropriate shoreline development should be identified and mitigated to maintain shoreline ecological function as it exists at the time of adoption of the updated SMP. No net loss is accomplished at a minimum of two different levels: through the SMP update ("planning") process and over time during subsequent project ("permitting") review.

Non-conforming use or development – A shoreline use, building, or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable permitting provisions in the shoreline jurisdiction (WAC 173-27-080).

Non-water-oriented uses – Those uses that have little or no relationship to the City's shoreline jurisdiction and are not considered priority uses under the SMA. Non-water-oriented use examples include professional offices, repair shops, mini-storage facilities, multifamily residential development, department stores, and gas stations.

Normal maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2)(b)). See also Normal Repair.

Normal repair – To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2)(b)). See also Normal Maintenance.

Open space – Land area allowing view, use or passage that is almost entirely unobstructed by buildings, paved areas, or other fabricated structures.

Ordinary high water mark – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the

abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Overwater structure – Any device or structure projecting over the ordinary high water mark, including, but not limited to bridges for motorized or non-motorized uses, piers, docks, floats, and moorage.

Permit (or shoreline permit) – Any shoreline substantial development permit, variance, or conditional use permit, or revision, or any combination thereof, authorized by the SMA. Refer to WAC 173-27-030(13).

Person - An individual, firm, co-partnership, association, or corporation.

Priority habitat – A habitat type with unique or significant value to one (1) or more species. An area classified and mapped as priority habitat must have one (1) or more of the following attributes:

a. Comparatively high fish or wildlife density;

b. Comparatively high fish or wildlife species diversity;

c. Fish spawning habitat;

d. Important wildlife habitat;

e. Important fish or wildlife seasonal range;

f. Important fish or wildlife movement corridor;

g. Rearing and foraging habitat;

h. Important marine mammal haul-out;

i. Refugia habitat;

j. Limited availability;

k. High vulnerability to habitat alteration;

l. Unique or dependent species; or

m. Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority species – Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the four (4) criteria listed below.

a. Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the WDFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

c. Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and non-native fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

d. Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Pristine shrub-steppe habitat – An environment with a healthy vegetative layer of perennial bunchgrasses and a conspicuous but discontinuous layer of shrubs, such as sagebrush and bitterbrush, and which lacks a significant percentage of invasive plant species, such as cheat grass, mustards, crested wheat grass, and Russian thistle (tumbleweed). For purposes of this definition, “significant” means more than a 15 percent cover of invasive plant species.

Provisions – Policies, regulations, standards, guideline criteria, or shoreline designations.

Public access – Public access is the ability of the 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 City's shoreline jurisdiction from adjacent locations. Refer to WAC 173-26-221(4).

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 such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public use – Public use means to be made available daily to the public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

Qualified stream biologist – A person with a Bachelor of Science, or equivalent degree, in wildlife sciences, biology, fisheries, environmental sciences, soil science, limnology, or an equivalent academic background who also has at least two years of experience in stream or river restoration. A designated representative of a consulted public agency specializing in stream biology shall also constitute a qualified stream biologist.

Qualified wetland specialist – A professional wetland scientist with at least the equivalent of two years of full-time work experience as a wetlands professional, including wetland delineations using the state or federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.

Qualified wildlife biologist – A person having, at a minimum, a bachelor's degree in wildlife biology, wildlife science, wildlife ecology, wildlife management or zoology, or a bachelor's degree in natural resource or environmental science plus 12 semester or 18 quarter hours on wildlife coursework and two years of professional experience. A designated representative of a consulted public agency specializing in wildlife biology shall also constitute a qualified wildlife biologist.

RCW – Revised Code of Washington.

RCW Chapter 90.58 – The SMA of 1971.

Recreational development – Development including commercial and public facilities designed and used to provide recreational opportunities to the public.

Residential development – Development, which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single-family development, multi-family development and the creation of new residential lots through land division.

Restoration – "Restore," "restoration," or "ecological restoration," means the reestablishment or upgrading of impaired ecological processes or functions in the shoreline jurisdiction. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive structures and removal or treatment of toxic materials in the shoreline jurisdiction. Restoration does not imply a requirement for returning the City's shoreline jurisdiction to aboriginal or pre-European settlement conditions.

Riparian – Of, on, or pertaining to the banks of a river, stream, or lake.

Seismic hazard areas – Those areas that are susceptible to severe damage as the result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

Setback – A required open space buffer, specified in the SMP, measured horizontally upland from and perpendicular to the ordinary high water mark, contiguous or adjacent to a river or stream for the continued maintenance, function, and structural stability of the river or stream. Functions of a setback include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

Shall – "Shall," means a mandate; the action must be done.

Shorelands or shoreland areas – Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous flood plain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with rivers, streams, lakes, and tidal waters, which are subject to the provisions of the SMA. Shorelands in the City are limited to those areas within two hundred (200) feet of the ordinary high water mark of the Yakima River, any associated wetlands, floodways, and floodplains that are within two hundred (200) feet of the ordinary high water mark or floodway.

Shoreline administrator – As appointed by the Mayor, the City's Shoreline Administrator is charged with the responsibility of administering the SMP.

Shoreline conditional use – A use or development that is specifically listed by the SMP as a conditional use within a particular shoreline environment designation.

Shoreline environment designations – Categories of shorelines established by the SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different areas in the shoreline jurisdiction. See WAC 173-26-211.

Shoreline functions – The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the City's natural ecosystem in the shoreline jurisdiction.

Shoreline jurisdiction – The term describing all of the geographic areas covered by the SMA, related rules, the applicable SMP, and such areas within a specified City's authority under the SMA. See definitions of Shorelines, Shorelines of the State, Shorelines of Statewide Significance, Shorelands, and Wetlands.

Shoreline Management Act (SMA) – RCW Chapter 90.58 and WAC Chapter 173-27, as amended. The Legislature passed the SMA in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Shoreline Master Program (SMP) – The comprehensive use plan and related use regulations, which are used by the City to administer and enforce the permit system for shoreline management. SMPs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline modification – Those actions that modify the physical configuration or qualities of the City's shoreline jurisdiction, 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.

Shoreline permit – A shoreline substantial development permit, variance, conditional use permit, revision, or any combination thereof (WAC 173-27-030(13)).

Shoreline stabilization – Structural and nonstructural methods to address erosion impacts to property and dwellings, businesses, buildings, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural measures such as bulkheads and non-structural methods such as soil bioengineering. New stabilization measures include enlargement of existing structures.

Shoreline substantial development permit – The permit required for all substantial developments as defined in RCW 90.58.030(3)(e).

Shoreline variance – A procedure to grant relief from the specific bulk, dimensional or performance standards set forth in the SMP, and not a means to allow a use not otherwise permitted within a shoreline environment designation.

Shorelines – All of the water areas of the state, including reservoirs and their associated uplands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

Shorelines hearings board – A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by the City. See RCW 90.58.170 and RCW 90.58.180.

Shorelines of the state – The sum of all "shorelines" and "Shorelines of Statewide Significance" within the state.

Shorelines of Statewide Significance – Shorelines of the state that meet the criteria for Shorelines of Statewide Significance contained in RCW 90.58.030(2)(e).

Should – "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and the SMP, against taking the action.

Sign – Any device, structure, fixture, or placard that uses words, letters, numbers, symbols, graphic designs, logos, or trademarks for the purpose of: a) providing information or directions; or b) identifying or advertising any place, establishment, product, good or service.

Significant impact – A meaningful change or recognizable effect to the ecological function and value of a critical area, which is noticeable or measurable, resulting in a loss of function and value.

Site – Any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's ownership or control where the proposed project impacts a critical area(s).

Slope – An inclined earth surface, the inclination of which is expressed as the ratio (percentage) of vertical distance (rise) to horizontal distance (run) by the following formula:

V (vertical distance)/H (horizontal distance) x 100 = percent slope

Solid Waste – Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials, and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

Species of local importance – A species of animal that is of local concern due to their population status or their sensitivity to habitat manipulation.

Stockpiling – The placement of material with the intent to remove at a later time.

Stream – A naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty (20) cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

Stream analysis report –A report prepared by a qualified stream biologist in accordance with the methods provided by the WDFW or other acceptable scientific method that identifies, characterizes, and analyzes potential impacts to a stream or river consistent with the applicable provisions of these regulations.

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)).

Substantial development – Any development of which the total cost or fair market value exceeds six thousand, four hundred and sixteen dollars ($6,416.00), or any development, which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the office of financial management every five (5) years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. "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 (1) month before the new dollar threshold is to take effect (RCW 90.58.030(3)(e)). For purposes 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, contributed, or found labor, equipment, or materials (WAC 173-27-040(2)(a)).

Substrate – The soil, sediment, decomposing organic matter or combination of those located on the bottom surface of the wetland.

Transportation facilities – Those structures and developments that aid in land and water surface movement of people, goods, and services. Bikeways and trails are considered recreational development.

Upland – Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities – Services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, stormwater, sewage, and communications.

Utilities, accessory – Utilities comprised of small-scale distribution and collection facilities connected directly to development within the City's shoreline jurisdiction. Examples include local power, telephone, cable, gas, water, sewer, and stormwater service lines.

Utilities, primary – Utilities comprised of trunk lines or mains that serve neighborhoods, areas, and cities. Examples include solid waste handling and disposal sites, water transmission lines, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

Utility line – A pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, sanitary sewer, irrigation, power, gas, and communications.

WAC – Washington Administrative Code.

Water-dependent use – A use or a portion of a use, which cannot exist in any other location and is dependent on the water due to the intrinsic nature of its operations. Examples of water-dependent uses may include moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

Water-enjoyment use – A recreational development or other use that facilitates public access to the City's shoreline jurisdiction as a primary characteristic of the use; or a use that provides for recreational development or aesthetic enjoyment of the City's shoreline jurisdiction 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 City's shoreline jurisdiction. 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.

Water-oriented use – Refers to any combination of water-dependent, water-related, and/or water-enjoyment uses and serves as an all-encompassing definition for priority uses under the SMA.

Water-related use – A use or a portion of a use, which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location.

Waterward – On the waterside of the OHWM for a body of water.

Wetland analysis report – A report prepared by a qualified wetland specialist that identifies, characterizes, and analyzes potential impacts to a wetland consistent with the applicable provisions of these regulations.

Wetland buffer zone – A designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and structural stability of the wetland. Functions of a buffer include shading, input of organic debris and coarse sediments, uptake of nutrients, stabilization of banks, protection from intrusion, or maintenance of wildlife habitat.

Wetland category – One of four categories assigned to wetlands when using Ecology's Washington State Wetland Rating System for Eastern Washington (revised) Publication No. 04-06-15. The categories place wetlands together, which have similar sensitivity to disturbance,

rarity, and functions. The three functions rated include water quality improvement, hydrologic support, and habitat.

Wetland delineation – The flagging or staking in the field of the edges of the wetland by a qualified wetland specialist, in accordance with the approved Federal Wetland Delineation Manual and applicable regional supplements.

Wetland restoration – The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For tracking net gains in wetland acres, restoration is divided into the following:

1. Reestablishment. 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. Reestablishment results in rebuilding a former wetland and results in a gain in wetland acres.

2. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres.

Wetlands – "Wetlands" or "wetland areas" means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from 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. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Wildlife habitat – Areas that provide food, protective cover, nesting, breeding, or movement for fish or wildlife, and with which an individual species has a primary association.

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Appendix 1: Maps

Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction

A. Purpose

The purpose of this Appendix is to implement the SMA's policy of protection of shoreline natural resources through the protection and encouraged restoration of ecological functions necessary to sustain these resources in conjunction with the other provisions of this SMP. It is also 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 property. It is not the intent of this Appendix to deny a reasonable use of private and public property, but to assure that development on or near critical areas in the City's shoreline jurisdiction is accomplished in a manner that is sensitive to the environmental resources of the community.

B. Goals

The City of West Richland's goals are to protect existing ecological functions, restore degraded ecological functions, and to achieve no net loss of ecological functions through avoidance of negative impacts to critical areas within the City's shoreline jurisdiction.

It is the intent of this Appendix to accomplish the following:

1. Protect environmentally sensitive natural areas and the functions they perform by the careful and considerate regulation of development;
2. Minimize damage to life, limb and property due to seismic hazards, landslides and erosion on steep or unstable slopes;
3. Protect wetlands to the extent that there is no net loss of size, functions and values;
4. Protect and maintain stream flows and water quality within streams;
5. Preserve natural forms of flood control and stormwater storage, by avoiding alterations to drainage or stream flow patterns;
6. Protect aquifer recharge areas from development activities and practices that would be undesirable or harmful to the groundwater supply;
7. Protect, maintain and enhance areas highly suited for wildlife, and lands with which threatened, endangered, or sensitive species are known to have a primary association;

8. Protect and maintain critical fish and wildlife habitat conservation areas and corridors so as to avoid the creation of isolated subpopulations;
9. Enhance degraded critical fish and wildlife habitat conservation areas;
10. Comply with the SMA rules and guidelines;
11. Implement the goals, policies, and requirements of the GMA.

C. Applicability

1. Critical Area Review. The provisions of this Appendix shall apply to all activity within critical areas and their required buffers inside the City's shoreline jurisdiction.
2. Definitions of terms used in this Appendix may be found in SMP Chapter 7: Definitions.
3. Lands may contain more than one type of critical area. In the event of a difference or conflict among regulations, those regulations or procedures that provide greater protection to the environmentally sensitive area shall apply.
4. Special Studies Required. When an applicant submits an application for any shoreline development proposal, the application shall indicate whether any critical area is located on the site. The City's Shoreline Administrator shall visit the site, and in conjunction with the review of the information provided by the applicant and any other suitable information, shall make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient to evaluate a proposal adequately, the City's Shoreline Administrator shall notify the applicant that additional studies as specified herein shall be provided.
5. Applicability to SEPA. None of the regulations contained in this Appendix shall preclude or diminish the authority to require mitigation of significant environmental impacts through SEPA.
6. Appeals. A decision of the City's Shoreline Administrator to approve, conditionally approve or deny a permit, or any official interpretation in the administration of this Appendix, may be appealed in accordance with the procedures established under SMP Chapter 6: Administration Section H.5: Public Hearing and Decision.

D. Wetlands – Designation and mapping

1. Pursuant to WAC 365-190-080(1), the city designates wetlands as critical areas defined in this Appendix.

2. The approximate location and extent of wetlands are shown on the City's critical area wetland map. The map is to be used as a guide and may be updated as additional information becomes available. The map is for reference only, and does not provide final wetland designations. Mapping sources used to create the City's wetland map include:
   a. Wetland areas designated on the national wetland inventory maps;
   b. Wetland areas identified through aerial photos and field observations; and
   c. Wetland areas identified in the City of West Richland's SMP Inventory and Characterization Report.

E. Wetlands – Identification and delineation

1. A qualified wetland specialist shall identify wetlands and delineate their boundaries pursuant to this Appendix in accordance with RCW 90.58.380, WAC 173-22-035, and the approved Federal Wetland Delineation Manual and applicable regional supplements. Guidelines for preparing a wetland delineation report are defined in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I.
2. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the 2004 Washington State Wetland Rating System for Eastern Washington, as updated in 2014 (Ecology Publication No. 14-06-018). The document contains the definitions and methods for determining if the criteria below are met. In the case of a wetland violation, the rating shall be based on the likely condition of the wetland before the unauthorized disturbance occurred.
3. Wetland Rating Categories:
   a. Category I. Category I wetlands are those wetlands of exceptional resource value based on their functional value and diversity. Category I wetlands that may be found in or near the city include:
      1) Wetlands designated by Washington Natural Heritage Program as high quality;
      2) Wetlands that perform high functions (wetlands scoring 70 points or more on the Ecology wetland rating form).
   b. Category II. Category II wetlands are those wetlands of significant resource value based on their functional value and diversity. Category II wetlands that may be found in or near the city include:
      1) Wetlands scoring between 51 and 69 points on the Ecology wetland rating form.
   c. Category III. Category III wetlands are those wetlands of important resource value based on their functional value and diversity. Category III wetlands are wetlands

with a moderate to low level of functions (wetlands scoring 30 to 50 points on the wetland rating form).

d. Category IV. Category IV wetlands are those wetlands with the lowest level of functions scoring less than 30 points on the Ecology wetland rating form.

F. Wetlands – Regulated activities

1. The following activities in a wetland and/or its associated buffer shall be regulated pursuant to the requirements of the SMA, the City's SMP, and this Appendix. Other activities, if not listed below, must conform to the SMA and the City's SMP. The activities regulated by this Appendix are as follows:

   a. Removing, excavating, disturbing or dredging soil, sand, gravel, minerals, organic matter, or materials of any kind;

   b. Dumping, discharging, or filling with any material;

   c. Draining, flooding, or disturbing the water level or water table;

   d. Constructing, reconstructing, demolishing, or altering the size of any structure or infrastructure, except repair of an existing structure or infrastructure, where the existing square footage or foundation footprint is not altered;

   e. Destroying or altering native vegetation through clearing, harvesting, cutting, intentional burning, shading, or planting non-native vegetation that would negatively alter the functions of the wetland; and

   f. Activities from construction or development that result in significant, adverse changes in water temperature, physical or chemical characteristics of wetland water sources, including quantity and pollutants.

2. Activities listed in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section F.1 that are near a wetland, but do not result in alteration of a wetland and/or its associated buffer, may require fencing or marking along the outside perimeter of the buffer, and/or erosion control measures. Protection of the buffer should be documented through photos and written description.

G. Wetlands – Permitting process

1. Overview. Inquiries regarding conduct of a regulated activity in or near a wetland can be made to the City's Shoreline Administrator. The City's Shoreline Administrator shall utilize the city's critical area wetland map to establish general location of wetland sites. If the maps indicate the presence of a wetland, a wetland analysis report shall be filed,

unless the City's Shoreline Administrator determines that a wetland and its associated buffer are not on or within the site.

This determination may be based on information provided by the applicant and from other sources. If the map does not indicate the presence of a wetland or wetland buffer zone within the site, but there are other indications that a wetland may be present, the City's Shoreline Administrator shall determine whether a wetland analysis report is required. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I for the wetland analysis report requirements.

2. Permit Requirements. Review of regulated activities within a wetland and wetland buffer is subject to the permit processing procedure as defined under WAC 173-27-180 and SMP Chapter 6: Administration. The review of proposed alterations to wetlands and buffer areas and a wetland mitigation plan by the City's Shoreline Administrator may be required prior to issuance of a shoreline substantial development permit, shoreline variance, shoreline conditional use permit or issuance of SEPA determination by the city's SEPA responsible official under WRMC Chapter 18.04 – Environmental Review (SEPA) (2007).
3. Request for Official Determination. A request for an official determination of whether a proposed use or activity at a site is subject to this Appendix must be in writing and made to the City's office of Community and Economic Development. The request shall contain plans, data, and other information in sufficient detail to allow for such determination, including a wetland delineation report. The applicant shall be responsible for providing plans and the wetland delineation report to the City's Shoreline Administrator.
4. If after a site inspection of the property, review of the wetland map, or review of other information about the site, the City's Shoreline Administrator has reason to believe that the proposed activity or development may occur within a wetland, or within a potential wetland buffer, a wetland analysis report shall be submitted to the City's Shoreline Administrator for review. The purpose of the wetland analysis report is to determine the extent and function of the wetland(s) to be impacted by the proposal. See SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I for the wetland analysis report requirements. If, after an inspection of the site, the City's Shoreline Administrator determines that the proposed project is not within a wetland or wetland buffer, such determination shall be indicated to the applicant in writing, and a wetland analysis report shall not be required.
5. Prior to development of a property that contains a classified wetland, the boundaries of the wetland and associated buffer shall be staked and flagged in the field by a qualified wetland specialist and surveyed by a licensed professional surveyor registered in the state. Field flagging shall be distinguishable from other survey flagging on the site. A

survey drawing shall be prepared depicting the wetland boundary and buffer, and corresponding topographic information, in relation to the property boundary.

6. If alteration of a wetland or buffer is proposed, a wetland mitigation plan shall be submitted pursuant to the requirements of this Appendix.

H. Wetlands – Administration

1. Notice and Title.

   a. Notice. Upon submission of a complete shoreline permit application as defined in SMP Chapter 6: Administration with approval complete wetland analysis report as defined in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section I, notice shall be provided to consulted agencies in accordance with WRMC Title 14 – Administration of Development Regulations (2012) and this SMP.

   Notice of Title. The owner of any private property with a field-verified wetland or wetland buffer, on which a development proposal is submitted, shall file for record with the Benton County auditor a notice approved by the City's Shoreline Administrator in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of a wetland or wetland buffer, the application of this Appendix to the property, and those limitations on actions in or affecting such wetlands and their buffers that may exist. The notice shall be notarized and shall be recorded prior to approval of any development of such site. The notice shall run with the land and shall be substantially in the following form:

WETLAND AND/OR WETLAND BUFFER NOTICE

Legal Description:

_____

_____

_____

Present Owner:_____

NOTICE: This property contains wetlands or their buffers as defined by City of West Richland Ordinance. Restrictions on use or alteration of the wetlands or their buffers may exist due to natural conditions of the property and resulting regulations. Contact the City of West Richland for more information.

_____ _____

Date Owner's Signature

2. Other Laws and Regulations. No approval granted pursuant to this Appendix shall remove an obligation to comply with the applicable provisions of any other federal, state, or local law or regulation.
3. Atlas. The City's Shoreline Administrator shall include all known and suspected wetlands on the city's critical area wetland map.

I. Wetlands – Analysis report requirements

1. A wetland analysis report, when required, shall be prepared by a qualified wetland specialist and submitted to the City's Shoreline Administrator as part of the review process established in SMP Chapter 6: Administration. A wetlands analysis report is not required for those wetlands previously mapped and classified, unless the City's Shoreline Administrator finds that the characteristics of the wetland have significantly changed based on Ecology and U.S. Army Corps of Engineers direction. A wetlands analysis report is required with all annexation petitions, land use applications and shoreline applications for properties that the City's Shoreline Administrator has reason to believe may contain a wetland or wetland buffer.
2. The wetland analysis report shall be prepared in accordance with the methods outlined in WAC 173-22-035, the approved Federal Wetland Delineation Manual and applicable regional supplements, and submitted to the City's Shoreline Administrator for review.
3. Within 60 days of receipt of the wetland analysis report and other information, the City's Shoreline Administrator shall determine the appropriate wetland category, buffering requirement, and required mitigation. The report shall be accorded substantial weight and the City's Shoreline Administrator shall approve the report's findings and approvals, unless specific, written reasons are provided which justify not doing so.

J. Wetlands – Buffer areas

1. Following the determination of the wetland category (I – IV), the City's Shoreline Administrator shall determine appropriate buffer widths. Wetland buffers shall be evaluated for all development proposals and activities adjacent to wetlands to determine their need to protect the integrity, functions, and values of the wetland. Wetland buffer widths are determined by the category of wetland, the intensity of impacts of a land use,

and the functions or special characteristics of the wetland that need to be protected, as determined by the rating system and the tables of this section. All wetland buffer zones are measured perpendicular from the wetland boundary as surveyed in the field.

Except as otherwise permitted by this Appendix, wetland buffers shall consist of a relatively intact native vegetation community adequate to protect the wetland functions and values at the time of the proposed activity. If the existing vegetation is disturbed (grazed, mowed or heavily infested with non-native plants), or otherwise inadequate to protect the wetland from the effects of the proposed development, then the buffer width shall be rehabilitated with native plant communities that are appropriate for the site. The buffer rehabilitation shall be conducted prior to, or in conjunction with, development of the property.

2. Impact of Land Use. Different uses of land have different potential levels of impacts to wetlands. To recognize the different levels of impact, the buffer shall be based on the level of impact categorized according to the following table:

Level of Impact from Land Use	Types of Land Uses Based on Common Zoning Categories
High	• Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/40,000 sq. ft.) • High-intensity recreation (ball fields, golf driving ranges, gun ranges, clubhouses, recreational buildings, etc., and associated parking lots) • High intensity farming practices (greenhouses, nurseries, animal pens and barns, etc.)
Moderate	• Residential (less than or equal to 1 unit/40,000 sq. ft.) • Moderate-intensity open space (golf course fairways, community park facilities and pathways not listed above, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)

Level of Impact from Land Use	Types of Land Uses Based on Common Zoning Categories
	• Driveways serving 3 or more residences • Utility corridor or utility right-of-way containing an access/maintenance road wider than 10' in width
Low	• Low-intensity open space (hiking, bird watching, neighborhood parks without parking, preservation of natural resources, etc.) • Driveways serving 1 or 2 residences • Unpaved trails 8' or less in width (nonmotorized) • Utility corridor without an access/maintenance road, or with a pervious access/maintenance road 10' or less in width, and little or no vegetation management

3. The buffer widths typically needed to protect Category IV wetlands in West Richland (for wetlands scoring less than 30 points for all functions) are as follows:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Recommended Protection Measures
Score for all 3 basic functions is less than 30 points	Low – 25 feet Moderate – 40 feet High – 50 feet	Maintain any existing connections with other wetlands, open space or habitat conservation areas

4. The buffer widths typically needed to protect Category III wetlands in West Richland (for wetlands scoring 30 to 50 points for all functions, or isolated vernal pools) are as follows:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Recommended Protection Measures
Moderate level of function for habitat (score for habitat 20 – 28 points)	Low – 75 feet Moderate – 110 feet High – 150 feet	Maintain any existing connections with other wetlands, open space or habitat conservation areas
Not meeting the above characteristics	Low – 40 feet	

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Recommended Protection Measures
	Moderate – 60 feet High – 80 feet	

5. The buffer widths typically needed to protect Category I and II wetlands in West Richland are as follows:

Wetland Characteristics	Buffer Widths by Impact of Land Use	Other Recommended Protection Measures
High level of function for habitat (score for habitat 29 – 48 points)	Low – 100 feet Moderate – 150 feet High – 200 feet	Maintain any existing connections with other wetlands, open space or habitat conservation areas
Not meeting the above characteristics	Low – 75 feet Moderate – 110 feet High – 150 feet	

6. Wetland Buffer Increases. The City's Shoreline Administrator may require increased buffer widths in accordance with the recommendations of a qualified wetland specialist and best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be reasonably related to protection of the functions and values of the regulated wetland. Such determination shall demonstrate that:

   a. A larger buffer is necessary to maintain viable populations of existing protected species or species of local importance; or

   b. The wetland is used by species listed by the federal government or the state as endangered, threatened, or sensitive species; or

   c. The adjacent land is susceptible to impact from severe erosion and erosion control measures will not effectively prevent adverse impact to the wetland; or

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

7. Building Setback. A 15-foot building setback is required from the edge of the wetland buffer for all buildings, except utility buildings/facilities and except residential accessory buildings exempt from rear or side setback requirements.

8. Where a legally established developed roadway transects a wetland buffer, the City's Shoreline Administrator may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the road does not provide any significant buffer functions to protect the wetland in question.

K. Wetlands – Alteration of buffers

1. Wetland Buffer Reductions. Buffer width reductions shall be considered on a case-by-case basis to take varying values of individual portions of a given wetland into consideration. Reductions may be allowed where the applicant demonstrates to the City's Shoreline Administrator that the wetland contains variations in sensitivity due to existing physical characteristics and that reducing the buffer width would not adversely affect the wetland functions and values. A wetland buffer shall not be reduced more than 25 percent. In no case shall a buffer be reduced solely to accommodate unauthorized actions (also known as code violations) that have degraded the buffer.

    a. Decision Criteria. Prior to approval, a buffer reduction proposal shall meet all of the decisional criteria listed below. The buffer modification will be approved in a degraded wetland buffer only if:

        1) The project will provide an overall improvement in water quality protection for the wetland; and

        2) The project will not adversely affect fish or wildlife species and will provide an overall enhancement to fish and wildlife habitat; and

        3) The project will provide a net improvement in drainage and/or stormwater detention capabilities; and

        4) All exposed areas are stabilized with native vegetation, as appropriate; and

        5) The reduction will not lead to unstable earth conditions or create an erosion hazard; and

        6) The reduction will not be materially detrimental to any other property or the city as a whole.

    b. Buffer Enhancement Plan. As part of the buffer reduction request, the applicant shall submit a buffer enhancement plan prepared by a qualified wetland specialist. The report shall assess the habitat, water quality, stormwater detention, groundwater recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; address the six decision criteria listed in SMP Appendix 2: Critical Area Provisions in the Shoreline

Jurisdiction, Section K.1.a; and demonstrate no net loss of ecological function. The buffer enhancement plan shall also provide the following:

1) A map locating the specific area of enhancement;
2) A planting plan that uses native plant species, including ground cover, shrubs, and trees;
3) Provisions for monitoring and maintenance over the monitoring period.

2. Wetland Buffer Width Averaging. Buffer width averaging shall be considered on a case-by-case basis when the proposed averaging is in accordance with an approved wetland mitigation plan and best available science. Buffer averaging shall not be used in conjunction with the provisions for buffer reductions in this section. Averaging of buffer widths may only be allowed where a qualified wetland specialist demonstrates that:

   a. It will not reduce wetland functions or values;
   b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
   c. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;
   d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
   e. The buffer width is not reduced, at any single point, to less than 50 percent of the standard buffer width. Reductions to less than 75 percent of the typical buffer width should be avoided where possible.

L. Wetlands – Permitted uses in buffer areas

The following activities are permitted within the wetland buffer; provided, that proposed activities are permitted in the applicable shoreline environment designation and any impacts or damage to the wetland buffer is fully mitigated through the requirements of the SMP. In planning and constructing these activities, reasonable measures shall be taken to protect any trees.

1. Wells and necessary appurtenances associated with single-family dwellings, including a pump and appropriately sized pump house, may be allowed in a wetland buffer if city water is not available within 200 feet of the property and there are no other alternative

locations available for a well on the property. In such case, the well shall be constructed such that it does not withdraw water from any shallow upper aquifer, or allow water from the wetland to infiltrate into the well hole directly.

2. Trails no more than five feet in width, observation areas, and viewing platforms; provided, that in the case of Category I wetlands, the minimum distance from the wetland edge is not less than 50 percent of the Category I buffer width established in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section J. A decrease in the required buffer width through buffer width averaging or other means does not indicate a corresponding decreased distance from a Category I wetland edge for trails, observation areas, and viewing platforms. Trails shall generally be located towards the perimeter of the buffer (in the outer 25 percent), and directly perpendicular to the wetland in the case of trails to observation areas and viewing platforms.
3. The placement of underground utility lines, residential on-site septic drain fields meeting the requirements of the Benton-Franklin Health District when city sewer is not available, and bioswales and detention/retention facilities for on-site stormwater treated by biofiltration or other processes prior to discharge when consistent with the Stormwater Management Manual for Eastern Washington; provided the minimum distance from the wetland edge is not less than 75 percent of the buffer widths established in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section J. Regional stormwater facilities shall not be located within the wetland buffers of Type I and II wetlands, and may be located within the wetland buffers of Type III and IV wetlands only when the wetland is sufficiently protected from water quality degradation and excessive water level fluctuations, and the facility is constructed in a manner that results in an enhancement to the buffer area.
4. Placement of access roads and utilities across Category II, III and IV wetland buffers, if the City's Shoreline Administrator determines that there is no reasonable alternative location for providing access and/or utilities to an existing lot and mitigation is provided as designated in this Appendix.
5. The installation of stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, within the outer 25 percent of a critical area buffer; provided, that:
    a. No other location is feasible; and
    b. The location of such facilities will not degrade the functions or values of the critical area; and
    c. The buffer is not for a Category I wetland.
6. The creation of lots from parcels containing wetlands and wetland buffers, subject to the following:

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

b. Land that is located partially within a wetland or its buffer is not precluded from being divided due to the presence of the wetland or buffer, provided:

   1) The wetland and its buffer is contained within a separate open space tract, as depicted on the document dividing the property (short plat, long plat, etc.); and

   2) The proposed lots are accessible through a route that is outside of the wetland and its buffer.

   To compensate for setting aside the wetland and buffer area in a separate tract, those lots immediately adjacent to the wetland tract and served with city sewer and city water need only be 75 percent of the minimum lot size and lot depth normally required, and permitted lot coverage shall be calculated as if the lot were the normal minimum lot size.

M. Wetlands – Alteration of wetlands and sequence of mitigation actions

1. All adverse impacts to wetland functions and values shall be fully mitigated following the procedures within SMP Chapter 4: General Regulations Section 4: Environmental Impacts.

2. Alteration of Category I wetlands is prohibited.

3. Alteration of Category II, III, and IV wetlands may be allowed when all adverse impacts to wetland functions and values can be shown to be fully mitigated in accordance with the mitigation sequence provided in SMP Chapter 4: General Regulations, Section 4 – Environmental Impacts. No net loss of ecological function and value shall occur due to wetland alteration.

N. Wetlands – Mitigation plan submittal requirements

1. In conjunction with submittal of any project for which alteration of a wetland is proposed, the applicant shall submit to the City's Shoreline Administrator a wetland mitigation plan substantially in the following form. It is highly recommended that the plan be consistent with the guidance found in "Wetland Mitigation in Washington State, Part 2: Developing Mitigation Plans" (Ecology Publication No. 06-06-011b, March 2006), or as hereafter revised.

   a. Conceptual Phase. A conceptual wetland mitigation plan shall be submitted to the City's Shoreline Administrator. In cases in which environmental review is required, a

threshold determination may not be made prior to City's Shoreline Administrator review of the conceptual wetland mitigation plan. The conceptual wetland mitigation plan shall include:

1) General goals of the wetland mitigation plan, including an overall goal of no net loss of wetland function and acreage, and striving for a net resource gain in wetlands over present conditions;
2) A review of literature or experience to date in restoring or creating the type of wetland or buffer proposed;
3) Approximate site topography following construction;
4) Location of proposed wetland compensation area;
5) General hydrologic patterns on the site following construction;
6) Nature of compensation, including wetland types (in-kind and out-of-kind), general plant selection and justification, approximate project sequencing and schedule, and approximate size of the new wetland buffer;
7) A conceptual maintenance plan;
8) Conceptual monitoring and contingency plan.

b. Detailed Phase. Following approval of the conceptual wetland mitigation plan by the City's Shoreline Administrator, a detailed wetland mitigation plan shall be submitted to the City's Shoreline Administrator. The detailed wetland mitigation plan shall contain, at a minimum, the following components, and shall be consistent with the standards in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Sections O and Q:

1) Text and map of the existing condition of the proposed compensation area, including:
    a) Existing vegetation community analysis;
    b) Hydrological analysis, including topography, of existing surface and significant subsurface flows into and out of the area in question;
    c) Soils analysis providing both Soil Conservation Service mapping and data provided by on-site verified determinations;
    d) Detailed description of flora and fauna existing on the site;
    e) Description of existing site conditions in relation to historic conditions for those sites that have been recently altered or degraded;
2) Text and map of the proposed alterations to the compensation area, including:

a) Relationship of the project to the watershed and existing water bodies;

b) Topography of site using one-foot contour intervals;

c) Water level data, including depth and duration of seasonally high water table;

d) Water flow patterns;

e) Grading, filling and excavation, including a description of imported soils;

f) Irrigation requirements, if any;

g) Water pollution mitigation measures during construction;

h) Aerial coverage of planted areas to open water areas (if any open water is to be present);

i) Appropriate buffers;

The wetland mitigation plan shall include detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated outcome;

3) As part of the wetland mitigation plan, a landscaping plan shall be designed by a registered landscape architect or contractor working with a qualified wetland specialist, describing what will be planted where and when. The landscape plan shall include the following:

a) Soils and substrate characteristics;

b) Specification of substrate stockpiling techniques;

c) Planting instructions, including species, stock type and size, density or spacing of plants, and water and nutrient requirement;

d) Specification of where plant materials will be procured. Documentation shall be provided which guarantees plant materials are to be procured from regional nurseries, or from wetlands on site that are part of the wetland mitigation plan;

4) A schedule shall be provided showing dates for beginning and completing the mitigation project, including a sequence of construction activities;

5) A monitoring and maintenance plan, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q. The plan shall include all the following:

a) Specification of procedures for monitoring and site maintenance;

b) A schedule for submitting monitoring reports to the City's Shoreline Administrator;

6) A contingency plan, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q;

7) A detailed budget for implementation of the wetland mitigation plan, including monitoring, maintenance and contingency phases;

8) A guarantee that the work will be performed as planned and approved, consistent with SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section Q;

9) The wetland mitigation plan shall be signed by the qualified wetland specialist to indicate that the plan is according to specifications determined by the qualified wetland specialist. A signed original wetland mitigation plan shall be submitted to the City's Shoreline Administrator.

c. Following the approval of the detailed wetland mitigation plan by the City's Shoreline Administrator, a notice of the plan shall be signed and notarized by the applicant and City's Shoreline Administrator, and recorded with the Benton County auditor at the applicant's expense. The notice of the plan may be combined with the notice of SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section H.

d. Approval of the detailed wetland mitigation plan shall occur prior to the issuance of building permits or other development permits. No development activity shall occur on the site prior to approval. Required mitigation may also be required prior to issuance of permits or prior to commencing development activity. Timing of required mitigation shall be determined on a case-by-case basis.

O. Wetlands – Criteria for compensatory mitigation – Location and timing of compensatory mitigation

1. The applicant shall develop a wetland mitigation plan that provides for construction, maintenance, monitoring, and contingencies of the replacement wetland. In addition, the applicant and landowner shall meet the following criteria:

   a. The restored, created, or enhanced wetland shall be as persistent as the wetland it replaces;

   b. The applicant shall demonstrate sufficient capability to carry out the compensation project;

   c. The compensation area shall be provided with permanent protection and management to avoid further development or degradation and to provide for the long-term persistence of the compensation area as designed.

2. In cases in which it is determined that compensatory mitigation is appropriate, the following shall apply:
   a. Compensatory mitigation shall be provided on site, or in the immediate vicinity of the impacted wetland, when the location can adequately replace the functions that were lost.
   b. When compensatory mitigation cannot be provided on site or in the immediate vicinity, it should be provided within the same watershed. The proposed mitigation site shall be selected and reviewed based on the guidance found in "Wetland Mitigation in Washington State, Part 2, Developing Mitigation Plans (Version 1, Publication No. 06-06-011b, March 2006)," or as hereafter revised.
   c. Mitigation projects shall be completed prior to, or in conjunction with, the other permitted activities on the site, unless a phased schedule is agreed upon between the City's Shoreline Administrator and the applicant. The timing of the mitigation shall be specified in the development permit. Refer to SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Section P for guidelines on determining wetland acreage replacement ratios.

P. Wetlands – Replacement criteria

1. Where wetlands are altered, the applicant shall meet the minimum requirements of this section.
2. When it is proposed to alter or eliminate a wetland, the applicant shall be required to replace or enhance the functions and values of the affected wetland. The wetland values will be based on an approved evaluation procedure. The recommended ratios for replacement and enhancement of wetlands are as established in the following table. A combination of replacement and enhancement may be authorized. The applicant should coordinate with any other permitting agency (potentially Ecology, U.S. Army Corps of Engineers, and the Environmental Protection Agency) to be sure that all permitting agencies will be satisfied with the proposed ratio(s). The following table meets the standards of Wetland Mitigation in Washington State, Part 1 (Version 1, Publication No. 06-06-011a, March 2006):

Wetland Type	**Enhancement Ratio (Area enhanced to area altered or destroyed)**	**Replacement Ratio (Replacement area to destroyed area)**
Category I	16 to 1 (for unauthorized wetland impact	4 to 1 (for unauthorized

Wetland Type	Enhancement Ratio (Area enhanced to area altered or destroyed)	Replacement Ratio (Replacement area to destroyed area)
	only)	wetland impact only)
Category II	12 to 1	3 to 1
Category III	8 to 1	2 to 1
Category IV	6 to 1	1.5 to 1

3. Replacement ratio for unauthorized wetland impact requires replacement at a ratio of two times that listed for the wetland category type. The increased ratio is based on the uncertainty of probable success of proposed replacement, projected losses of wetland functions and values, or significant period of time between elimination and replacement of wetland. Such required increases in replacement ratios will be made by the City's Shoreline Administrator after review of all pertinent data relating to the proposed or committed alteration.
4. The City's Shoreline Administrator will allow the ratios to be decreased if the applicant provides findings of special studies conducted by a qualified wetland specialist that demonstrate to the satisfaction of the City's Shoreline Administrator that no net loss of wetland function or value is attained under the decreased ratio.
5. In-kind compensation shall be provided except where the applicant can demonstrate to the satisfaction of the City's Shoreline Administrator that:
    a. The wetland system is already significantly degraded and out-of-kind replacement will result in a wetland with greater functional value; or
    b. Scientific problems such as exotic vegetation and changes in watershed hydrology make implementation of in-kind compensation impossible; or
    c. Out-of-kind replacement will best meet identified regional goals (e.g., replacement of historically diminished wetland types); or
    d. Where out-of-kind replacement is accepted, greater acreage replacement ratios may be required to compensate for lost functions and values.
6. Site-specific quantifiable criteria shall be provided for evaluating whether or not the goals and objectives for the proposed compensation are being met. Such criteria include but are not limited to water quality standards, survival rates for planted vegetation, habitat diversity indices, species abundance, or use patterns, hydrological standards including

depths and durations of water patterns. Detailed performance standards for mitigation planning shall include the following criteria:

a. Use only plants indigenous to Benton County (not introduced or foreign species);

b. Use plants appropriate to the depth of water at which they will be planted;

c. Use plants available from local sources;

d. Use plant species high in food and cover value for fish and wildlife;

e. Plant mostly perennial species;

f. Avoid committing significant areas of site to species that have questionable potential for successful establishment;

g. Plant selection must be approved by a qualified wetland specialist;

h. Water depth is not to exceed six and one-half feet (two meters);

i. The grade or slope that water flows through the wetland is not to exceed six percent;

j. Slopes within the wetland basin and the buffer zone should not be steeper than 3:1 (horizontal to vertical);

k. The substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals, or solid/hazardous wastes) inorganic/organic materials;

l. Planting densities and placement of plants shall be determined by a qualified wetland specialist and shown on the design plans;

m. The planting plan must be approved by a qualified wetland specialist;

n. Planting instructions shall describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock;

o. In the wetland buffer area, apply controlled release fertilizer at the base of the plantings the second year after planting and afterward only as plant conditions warrant (determined during the monitoring process);

p. Install an irrigation system, if necessary, for the initial establishment period and include sufficient mulch (not compost) to control weeds and promote moisture retention within the buffer area;

q. Construction specifications and methods shall be approved by a qualified wetland specialist and the City's Shoreline Administrator;

r. All mitigation shall be consistent with requirements of WRMC Chapter 18.16 - Flood Damage Prevention (2006), and city stormwater requirements, if applicable;

s. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, capacity of the wetland to store surface water should be equal to or greater than surface water storage capacity prior to the proposed activity;

t. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, ability of the wetland to intercept surface water runoff on the site should be equal to or greater than such ability prior to the proposed activity;

u. As appropriate, and if impacts to natural wetland functions and values can be fully mitigated, the ability of the wetland to perform stormwater detention functions should be equal to or greater than such functions prior to the proposed activity.

7. Wetland mitigation shall occur according to the approved wetland mitigation plan, and shall be consistent with all provisions of this regulation.

8. On completion of construction required to mitigate for impacts to wetlands, the wetland mitigation project shall be signed off by an approved qualified wetland specialist and the City's Shoreline Administrator. Signature will indicate that the construction has been completed as planned and the mitigation would be subject to the approved monitoring program and contingency plan.

Q. Wetlands – Monitoring program and contingency plan

1. If the wetland mitigation plan includes compensatory mitigation, a monitoring program shall be implemented to determine the success of the compensatory mitigation project.

2. Specific criteria shall be provided for evaluating the mitigation proposal relative to the goals and objectives of the project and for beginning remedial action or contingency measures. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological, or hydrological criteria.

3. A contingency plan shall be established for compensation in the event that the mitigation project is inadequate or fails.

4. Requirements of the monitoring program and contingency plan are as follows:

   a. During monitoring, use scientific procedures for establishing the success or failure of the project;

   b. For vegetation determinations, permanent sampling points shall be established;

   c. Vegetative success equals 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent species;

d. Submit monitoring reports of the status of the mitigation project to the City's Shoreline Administrator. The reports are to be prepared by a qualified wetland specialist and shall include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, and shall be produced on the following schedule:

   1) At time of construction;
   2) Thirty days after planting;
   3) Early in the growing season of the first year;
   4) End of the growing season of first year;
   5) Twice the second year;
   6) Annually;

e. Monitor five growing seasons;

f. Correct for any failures in the mitigation project, and remove weeds as necessary to reduce competition with planted vegetation;

g. Replace dead or undesirable vegetation with appropriate plantings;

h. Repair damages caused by erosion, settling, or other geomorphological processes;

i. Redesign mitigation project (if necessary) and implement the new design;

j. Correction procedures shall be approved by a qualified wetland specialist and the City's Shoreline Administrator.

R. Critical fish and wildlife habitat conservation areas

Critical fish and wildlife habitat conservation areas are those areas identified as being of critical importance in the maintenance and preservation of fish, wildlife, and natural vegetation. Areas that are identified or classified as critical fish and wildlife habitat conservation areas shall be subject to the requirements of this section.

1. General. Critical fish and wildlife habitat conservation areas, which do or may exist within West Richland, are identified as follows:

   a. Areas with which federal or state endangered, threatened, and sensitive species of fish or wildlife have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term;

   b. Habitats and species of local importance, including:

1) Special habitat areas that are infrequent in occurrence in the region and that provide specific habitats, as follows:

a) Category 1 and 2 wetlands;

b) Areas of pristine shrub-steppe habitat at least one acre in size;

c. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;

d. Waters of the state, including lakes, rivers, ponds, streams, inland waters, underground waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031;

e. Lakes, ponds and streams planted with fish by a governmental agency, agency-sponsored group, or tribal entity;

f. State natural area preserves and natural resource conservation areas.

2. Mapping. The following documents, which may be continuously updated as new information becomes available, may be used as a guide for locating critical fish and wildlife habitat conservation areas. Note that some information is deemed sensitive and may not be released, except in accordance with applicable agreements, such as the WDFW Releasing Sensitive Fish and Wildlife Information Policy 5210 and corresponding release agreement.

a. WDFW Priority Habitat and Species lists;

b. WDNR State Natural Area Preserves and Natural Resource Conservation Area maps.

3. Regulation. Critical fish and wildlife habitat conservation areas are to be managed by maintaining the subject species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all critical habitat or individuals of all species at all times, but does mean coordinated planning and development to ensure no net loss of ecological function.

a. Habitat Assessment. If the City's Shoreline Administrator has reason to believe that critical fish and wildlife habitat exists on or within 200 feet of a property proposed for any development activity, a habitat assessment shall be prepared by a qualified wildlife biologist. The habitat assessment shall include, at a minimum, the following:

1) An analysis and discussion of critical species or habitats known or suspected to be located within 200 feet of the project site;

2) A site plan that clearly delineates the critical fish and wildlife habitats found on or within 200 feet of the site.

b. Habitat Assessment Review. The habitat assessment review shall be forwarded for review and comment to agencies with expertise or jurisdiction on the proposal, including, but not limited to, the:

1) WDFW;

2) United States Fish and Wildlife Service, if any federal endangered or threatened species are involved.

Comments received by the requested review agencies within 45 days of the submittal of the assessment shall be considered by the City's Shoreline Administrator. If it is determined, based upon the comments received, that critical fish and wildlife habitat does not occur on or within 200 feet of the site; the development may proceed without any additional requirements under this section. If it is determined that a critical fish and wildlife habitat is on or within 200 feet of the site, a habitat management plan shall be prepared.

c. Habitat Management Plan. Habitat management plans required under this section shall be prepared by a qualified wildlife biologist. The habitat management plan must be prepared in coordination with and reviewed by the WDFW, and if any federal endangered or threatened species are involved, by the United States Fish and Wildlife Service. A habitat management plan shall contain, at a minimum, the following:

1) Analysis and discussion on the project's effects on critical fish and wildlife habitat;

2) An assessment and discussion on special management recommendations that have been developed for critical species or habitat located on the site by any federal or state agency;

3) Proposed mitigation measures that could minimize or avoid negative impacts;

4) Assessment and evaluation of the effectiveness of the mitigation measures proposed;

5) Assessment and evaluation of ongoing management practices to protect critical fish and wildlife habitat after development of the project site, including proposed monitoring and maintenance programs;

6) Assessment of project impact or effect on water quality, and any proposed methods or practices to avoid degradation of water quality, if applicable;

7) Assessment of any need to interconnect the subject area with other fish and wildlife habitat to ensure that isolated subpopulations are not created.

An opportunity for review of the proposed habitat management plan shall be provided to applicable federal and state agencies. Comments received from the agencies

within 45 days of circulation of the plan shall be considered by the city and, if mitigation is recommended, may be incorporated as conditions of project approval, as appropriate. If it is determined, based upon the comments received, that a project or proposal is likely to result in the extirpation or isolation of a critical fish or wildlife species the project or proposal may be denied.

4. Buffer Requirements. If it is determined, based upon a review of the comments received on the habitat management plan, that a buffer would serve to mitigate impacts to a critical fish or wildlife habitat, an undisturbed buffer shall be required on the development site. The width of the buffer shall be based upon a recommendation of at least one of the appropriate review agencies.

5. Specific Habitats – Anadromous Fish.

   a. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

      1) Activities shall be timed to occur only during the allowable work window as designated by the WDFW for the applicable species;

      2) Alternative alignments or locations for the activity that do not involve the anadromous fish habitat have been considered and determined not feasible;

      3) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and

      4) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

   b. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided to allow the upstream migration of adult fish and to prevent fry and juveniles migrating downstream from being trapped or harmed.

   c. Filling of water bodies, when authorized by the city of West Richland's shoreline management master program and SEPA review, shall not adversely impact anadromous fish or their habitat, or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

6. Specific Habitats – Bald Eagle Protection. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified wildlife biologist. Activities are adjacent to bald eagle sites when they are within 800 feet of a bald eagle nest, or within a

one-half mile of a bald eagle nest and within 250 feet of a shoreline. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the WDFW.

7. Government and Conservation Land – Protection. In addition to the critical fish and wildlife habitat conservation areas protected in subsection A of this section, the city of West Richland hereby recognizes the benefit of undeveloped government and conservation lands that may not otherwise qualify as critical fish and wildlife conservation areas, but which still provide beneficial wildlife habitat. The land development patterns of Section 6 and Section 8 of Willamette Heights, combined with the undeveloped government-owned land in those sections and elsewhere throughout the city, contribute significantly to the habitat inventory and wildlife corridors of several species that are not endangered, threatened, or sensitive, but which are listed as state candidate and state monitored species. To recognize the benefit of these lands, the following areas are included as fish and wildlife habitat and species of local importance:

   a. Lands owned by a government entity or conservation group that have all of the following characteristics:

      1) Are not otherwise classified as critical fish and wildlife habitat;

      2) Are not public road right-of-way;

      3) Have a primary association with a federal candidate species, state candidate species, federal species of concern, or state monitored species, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term; and

      4) Are mapped as "Government and Conservation Land" on the city of West Richland's map titled "Critical Fish and Wildlife Habitat Conservation Areas."

   The lands so classified are not subject to the provisions of subsections A through D of this section. However, if development of the government land is proposed, a habitat assessment shall be performed by a qualified wildlife biologist to help the city determine if the property, or a portion thereof, must be protected for the purpose of serving as a wildlife corridor or habitat to prevent the likelihood of the subject species from becoming listed as endangered, threatened, or sensitive. Private lands adjacent to such government and conservation lands shall observe a 35-foot setback and buffer.

8. Wildlife Corridors to Be Established. All development proposals near a future wildlife corridor, as shown on the city's critical fish and wildlife habitat conservation areas map, shall be reviewed to determine whether the wildlife corridor, or a portion thereof, is needed across the subject property. The width of the wildlife corridor shall generally be at least 100 feet, where not restricted by existing development.

In order to allow movement of the subject species, the wildlife corridor shall preferably be maintained in a natural habitat condition and free of barriers; provided corridors with degraded, poor-quality habitat may be improved as landscaped areas when a qualified wildlife biologist or wildlife agency is satisfied that the landscaping and associated improvements will still maintain an effective wildlife movement corridor.

If a wildlife corridor is determined necessary, it shall be established by easement, or other legal method agreeable to the city, and recorded with the Benton County auditor.

S. Critical Aquifer Recharge Areas – Designation

CARAs are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. The following areas have been identified as CARAs based on local conditions:

1. Wellhead Protection Areas of All Public Water Systems. Wellhead protection areas shall be defined by the boundaries of the 10-year groundwater time of travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

T. Mapping of Critical Aquifer Recharge Areas

The approximate location and extent of the CARAs are shown on the critical area map titled "Aquifer Recharge Areas." The source of the original mapping is found in Exhibit 4-3 of the City of West Richland Wellhead Protection Plan, September 2002. This map is to be used as a guide for the city, project applicants and/or property owners, and may be updated as new information becomes available.

U. Critical Aquifer Recharge Areas – Regulation

The following items are in place to protect CARAs and regulate activities that might potentially impact these areas:

1. City of West Richland construction standards (WRMC Title 12 – Streets, Sidewalks and Public Places (2012) and WRMC Title 13 – Public Services – Water, Sewer, Irrigation and Stormwater (2014)).
2. City of West Richland wellhead protection plan.

3. Chapter 173-218 WAC (Underground Injection Control Program).
4. State and federal regulations applicable to specific uses, including but not limited to those listed in SMP Appendix 2: Critical Area Provisions in the Shoreline Jurisdiction, Sections W and X.
5. The groundwater quality standards of Chapter 173-200 WAC.

V. Critical Aquifer Recharge Areas performance standards – General requirements

1. Activities may only be permitted in a CARA if the applicant can show that the proposed activity will not significantly affect the recharging of the aquifer and that the proposed activity will not cause contaminants to enter the aquifer. In the case of underground injection wells (drywells, infiltration trenches, drainage wells, etc.), compliance with Chapter 173-218 WAC shall typically be deemed sufficient to meet this requirement. With other activities and uses that could potentially pollute groundwater, compliance with the standards and review process of Chapter 173-200 WAC, Water Quality Standards for Ground Waters of the State of Washington, will typically apply.
2. The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Health, Ecology, and the Benton-Franklin Health District, and as provided in the city's wellhead protection plan.
3. The proposed activity must be designed and constructed in accordance with best management practices for stormwater management, such as those found in the Eastern Washington Stormwater Manual, Ecology Publication No. 04-10-076, or its equivalent.

W. Critical Aquifer Recharge Areas performance standards – Specific uses

1. Storage Tanks. All storage tanks proposed to be located in a CARA must comply with applicable building code requirements and the following:
    a. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
        1) Prevent releases due to corrosion or structural failure for the operational life of the tank;

2) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances;

3) Use material in the construction or lining of the tank and seals that is compatible with the substance to be stored; and

4) Include leak detection features.

b. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed to:

1) Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

2) Prevent spilled or leaked materials from entering floor drains that are not part of a liquid-tight containment system designed to capture and hold hazardous materials; and

3) Meet one of the following four options:

a) Be stored indoors on a liquid-tight concrete floor, without secondary containment if the storage area is able to contain 100 percent of the largest container in the event of a spill and prevent it from flowing or leaking out of the building.

b) Be stored outdoors or indoors and provided with a covered secondary containment area that can hold 110 percent of the volume of the largest storage container or 10 percent of the total volume stored, whichever is greatest, plus the displacement volume of any items inside the containment.

c) Be stored in an outdoor, uncovered secondary containment that can hold 120 percent of the volume of the largest storage container or 10 percent of the total volume stored, whichever is greatest, plus the displacement volume of any items inside the containment.

d) Be stored in a UL-certified double-walled storage tank. The volume requirements that are listed in options a), b), and c) do not apply to UL-certified double-walled storage tanks.

2. Vehicle Repair and Servicing. Within CARAs, all vehicle repairs and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks or spills occur.

3. Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by Ecology and the Department of Health.
    a. Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080.
    b. Direct injection must be in accordance with Chapter 173-218 WAC and the standards developed by authority of RCW 90.46.042.
4. State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect CARAs in accordance with the applicable state and federal regulations:

Statutes, Regulations, and Guidance Pertaining to Activities Impacting Groundwater

Activity	Statute – Regulation – Guidance
Aboveground storage tanks	WAC 173-303-640
Animal feedlots	Chapters 173-216 and 173-220 WAC
Automobile washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Ecology WQ-R-95-56)
Below ground storage tanks	Chapter 173-360 WAC
Chemical treatment storage and disposal facilities	WAC 173-303-182
Hazardous waste generator (boat repair shops, biological research facility, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, printing and publishing shops, etc.)	Chapter 173-303 WAC
Underground injection wells (drywells, etc. – Note that any use involving stormwater, drainage, process water, or wastewater needs to be reviewed for applicability of Chapter 173-218 WAC)	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC

Statutes, Regulations, and Guidance Pertaining to Activities Impacting Groundwater

Activity	Statute – Regulation – Guidance
Junkyards and salvage yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (Ecology 94-146)
Oil and gas drilling	Chapter 173-218 WAC WAC 332-12-450
On-site sewage systems (large scale)	Chapter 173-240 WAC
On-site sewage systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide storage and use	Chapters 15.54 and 17.21 RCW
Sawmills	Chapters 173-303 and 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Ecology 95-53)
Solid waste handling and recycling facilities	Chapter 173-304 WAC
Surface mining	WAC 332-18-015
Wastewater application to land surface	Chapters 173-200 and 173-216 WAC, Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

X. Uses prohibited from Critical Aquifer Recharge Areas

The following activities and uses are prohibited in CARAs (prohibited uses are based on "Critical Aquifer Recharge Areas Guidance Document" by Ecology, January 2005, Publication No. 05-10-028, and Chapter 173-218 WAC):

1. Class I, III, and IV underground injection wells (see Chapter 173-218 WAC);
2. Underground injection wells that do not comply with Chapter 173-218 WAC;
3. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;
4. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces;
5. Creosote or asphalt manufacturing;
6. Class 1A or 1B flammable liquids manufacturing as defined by the Uniform Fire Code;
7. Petroleum product pipelines; and
8. Facilities that treat or dispose of dangerous waste regulated by Chapter 173-303 WAC.

Y. Landslide and erosion hazard areas

Areas that are identified as potential landslide or erosion hazard areas shall be subject to the requirements established in this section. The requirements shall apply when the existing and/or proposed slopes fall within the parameters specified; provided, if it is satisfactorily demonstrated to the City's Shoreline Administrator that a landslide or erosion hazard potential clearly does not exist on the site and will not be created by the proposed action, the requirements of this section may be waived.

1. Mapping. The following documents, which may be continuously updated as information becomes available, may be used as a guide for locating landslide and erosion hazard areas:
    a. The city's critical area map titled "Erosion hazard areas."
    b. The city's critical area map titled "Hillsides with 15%+ slopes."
2. Hillsides and Erosion Hazard Areas – Geotechnical Study Required. Development on hillsides and erosion hazard areas shall comply with the following requirements. For purposes of this section, development shall include any activity that may affect the stability of the hillside or erosion hazard area, such as excavating, grading, filling, clearing, installing stormwater systems, developing roads, installing subdivision improvements, and constructing buildings.

a. Geotechnical Report Requirements. A geotechnical engineering study, prepared by a qualified civil engineer or geotechnical engineer license in the state, shall be provided by the applicant and contain the items specified by the following table. When the length of the sloped area is less than that specified in the following table, a study is not required.

If a geotechnical report has been prepared and accepted by the City's Shoreline Administrator within the previous two years for a specific site and the proposed land use development and site conditions have not changed, the report may be utilized without the requirement for a new report.

Slope of Hillside on Site and/or Adjacent Properties	**Length of Slope, Measured Along Ground**	**Geotechnical Report**
0% to 14.9% and not in an erosion hazard area	No limit	Report not required
8% to 14.9% and within an erosion hazard area	> 65 feet	Report required
15% to 24.9%	> 40 feet	Report required
25% to 39.9%	> 25 feet	Report required
40% +	> 20 feet, or more than a 10-foot vertical relief	Report required

b. Contents of Report. The geotechnical report shall address each of the following, as determined applicable to the situation by the city:

1) Topographic data at a minimum scale of 1:240 (one inch equals 20 feet). Slope ranges shall be clearly delineated in increments of 15 percent to 24.9 percent, 25 percent to 39.9 percent, and greater than 40 percent.

2) Subsurface data, including boring logs and exploratory methods, soil and rock stratigraphy, groundwater levels and any seasonal variations of groundwater levels.

3) Site history, including description of prior grading and clearing, soil instability or slope failure.

4) Slope stability analysis, including calculated slope stability safety factors and identification of the maximum slope percentage or ratio to maintain a slope-stability safety factor of one and one-half or better under static conditions and one and two-tenths or better under dynamic conditions. A sufficient number of tests shall be performed to ensure that all areas proposed for development currently provide, and will continue to provide, the minimum slope-stability safety factors. All areas with less than the minimum slope-stability safety factor shall be identified on a map and in the field.

5) Recommended buffers from landslide hazard areas or erosion hazard areas.

6) Suitability of the soils and hillside to accommodate stormwater facilities, irrigation, and roof runoff, and any measures necessary to mitigate any hazards relating thereto.

7) Recommended seismic design criteria for development of the site, if construction is contemplated.

8) For areas with slopes over 25 percent, or a slope stability factor of less than two, a seismic stability analysis of the site for both preconstruction, construction, and post construction.

9) Recommended methods to minimize erosion and stormwater runoff from the site during and after construction.

10) Any special considerations needed during construction, so that temporary cuts/fills such as done for utility installation do not create situations of unsafe slope stability.

11) Other site limitations and construction considerations.

12) A recommendation as to whether further engineering, or observation by an engineer, is needed beyond the current project (such as when constructing houses following construction of a subdivision).

c. Adjacent Hazards – Study Required. Adjacent hillside and erosion hazard areas shall also be considered to determine whether they pose a landslide or erosion hazard to the development site. "Adjacent" shall mean within 50 feet from the side or top of a sloped area exceeding 15 percent, and within 100 feet of the toe of a slope exceeding 15 percent, or within 200 feet of the toe of a slope exceeding 40 percent. Such study of adjacent hillside and erosion hazard areas need not involve a full geotechnical engineering study, as outlined above, if a qualified engineer provides written certification that the adjacent area, in its present condition, does not constitute a hazard to the development of the site.

d. Implementation. Project construction, if authorized, shall be required to implement all recommended requirements of the geotechnical report, and any additional requirements as determined by the department. In addition, should adjacent properties be adversely impacted by the implementation or construction, additional mitigation measures necessary to minimize or eliminate these impacts shall be implemented by the applicant.

e. Development Restricted within Erosion Hazard Areas. Development within an erosion hazard area may only be authorized when:

   1) The erosion hazard to public and private property and to the public health and safety can be mitigated to the extent that the erosion hazard no longer presents a significant risk, as determined by the geotechnical engineer and city after review of the geotechnical study. The city may require professional assurances from the geotechnical engineer, developer, and property owner; and

   2) The area is not within a landslide hazard area.

f. Development Restricted within Landslide Hazard Areas. Except as provided below, development within a landslide hazard area and its recommended buffer is prohibited. Furthermore, no landslide hazard shall be created or increased in size or hazard by any development. Landslide hazard areas include all areas with a slope stability factor of less than one and one-half for static conditions of one and two-tenths for dynamic conditions, as calculated by a qualified geotechnical engineer. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the building code.

   1) Exception 1: An existing lot may be developed with a single-family dwelling in landslide hazard areas with a slope stability safety factor of at least one in static and dynamic conditions, provided a qualified engineer certifies that accepted engineering techniques will mitigate the impact of the contemplated improvements and that the hazard to neighboring properties will not be increased over existing conditions.

   2) Exception 2: Utility lines, utility facilities, and unpaved maintenance roads that follow the existing ground surface (grading to provide a drivable road surface is okay, but no cut/fill banks); provided no alternative locations or routes outside of the hazard area exist, and a qualified engineer certifies that accepted engineering techniques will mitigate the impact of the contemplated improvements and that the hazard to neighboring properties will not be increased over existing conditions.

g. The creation of lots containing landslide hazard areas and their buffers is subject to the following:

1) No lot shall be created that is wholly within a landslide hazard area or its buffer.
2) Development of the property shall not create any landslide hazard areas where they did not exist previously.
3) A lot that is located only partially within a landslide hazard area or its buffer is not precluded from being created; provided, that the area of the proposed lot that is outside of the landslide hazard area and its buffer contains a suitable building site to accommodate the contemplated improvements, and access to the building site is not within a landslide hazard area and its buffer.

h. Notice of Title. The owner of any property with a field-verified erosion hazard, landslide hazard, or associated buffer, as identified through a geotechnical report, shall file for record with the Benton County auditor a notice of such in a form substantially as set forth below. Such notice shall provide notice in the public record of the presence of the erosion hazard, landslide hazard, or associated buffer; the application of this chapter to the property; and that limitations on actions in or affecting such critical areas and their buffers may exist. The notice shall be notarized and shall be recorded prior to approval of any development of such site. The notice shall run with the land and shall be substantially in the following form:

EROSION HAZARD AND/OR LANDSLIDE HAZARD NOTICE

Legal Description:

_____

_____

_____

Present Owner:_____

NOTICE: This property contains an identified erosion hazard/landslide hazard/erosion hazard buffer/landslide hazard buffer (select applicable) as defined by City of West Richland Ordinance. Restrictions on use or alteration of the hazard area(s) or their buffers exist due to natural conditions of the property and resulting regulations. Contact the City of West Richland for more information.

_____ _____

Date Owner's Signature

i. Disturbance Limitations. The edge of an erosion hazard, landslide hazard, and associated buffer shall be clearly staked, flagged, and fenced prior to any adjacent site clearing or construction. Markers shall be clearly visible and weather-resistant. Authorized site clearing shall not commence until such time that the project proponent or authorized agent for the project proponent has submitted written notice to the city that the buffer requirements of this section have been met. Field marking of the buffer shall remain in place until all phases of construction have been completed and an occupancy permit has been issued by the city.

3. Other Laws and Regulations. No approval granted pursuant to this chapter shall remove an obligation to comply with the applicable provisions of any other federal, state, or local law or regulation.

Z. Seismic hazard areas.

1. Identification. Seismic hazard areas include those areas that are susceptible to severe damage as the result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, or surface faulting.

   a. Seismic hazard due to ground shaking is depicted at a regional scale on the map "Site Class Map of Benton County, Washington," by Stephen P. Palmer, et. al., published September 2004 by the Washington State Department of Natural Resources. Those areas depicted as Site Class D to E and higher shall be considered potential seismic hazard areas. A site-specific evaluation is necessary to analyze the actual ground conditions and the potential for amplified ground shaking, as measured by the site class or other more quantitative analysis.

   b. Slope failure due to seismic activity is addressed in the landslide and erosion hazard section, and is not regulated further by this section.

   c. Settlement during seismic activity is typically an issue with fill areas, whether naturally occurring or created through human action. Potential fill areas shall require soil testing and compaction testing pursuant to applicable building code standards. A map depicting known or potential fill areas may be created as a resource for identifying such areas.

   d. Soil liquefaction potential is depicted at a regional scale on the map "Liquefaction Susceptibility Map of Benton County, Washington," by Stephen P. Palmer, et. al., published September 2004 by the Washington State Department of Natural Resources. Those areas depicted with a "moderate to high" or "high" liquefaction

susceptibility shall be considered seismic hazard areas. Site-specific evaluation is necessary to analyze the actual conditions and potential for liquefaction. Areas subject to liquefaction are typically characterized by loose, sandy soils in association with a high groundwater table. As ground shaking occurs, the soil rapidly loses its strength and behaves like quicksand.

Some low-lying areas on the southern part of the city are known to have high groundwater and deposited sandy soils that may constitute localized liquefaction hazards (portions of the Polo Club developments and the greater Lakes area). Localized areas with liquefaction potential will be mapped as such additional information becomes available. Whether a site is mapped or not, any area with the characteristics of high groundwater and sand or cobble soils shall be further evaluated by a qualified consultant to determine the liquefaction susceptibility of the site.

e. Surface Faulting. The Rattlesnake-Wallula fault system runs from the Rattlesnake Mountain area in Yakima County to the Milton-Freewater area. The fault system passes along the southwest boundary of the city, running along the anticline fold that forms Red Mountain, Candy Mountain, and Badger Mountain, etc. Further to the southwest is the Horse Heaven Hills fault system. Both systems are considered Quaternary fault systems, meaning they have been recognized at the ground surface and they have moved within the last 1,600,000 years. In the document "The National Seismic Hazards Maps and Eastern Washington Seismic Hazard Assessment," by Art Frankel, United States Geological Survey (USGS), Golden, CO, Oct. 16, 2007, it is noted that the Rattlesnake-Wallula Fault system has a vertical slip rate of 0.043 millimeters per year, and an estimated recurrence time for a 6.5M or greater earthquake at 11,000 years.

The Benton County hazard mitigation plan, prepared for Benton County emergency services and the cities within the county by HDR Engineering, Inc., discusses earthquake hazards for the county and concludes in Chapter 5.3 that the likelihood of a major earthquake occurring within their five-year planning period is low. West Richland adopted the applicable portions of the plan April 5, 2004.

The approximate location of the Rattlesnake-Wallula fault system is depicted on the seismic hazard map. The source of the line, which is only considered accurate within plus or minus 450 feet, is the U.S. Geological Survey, 2006, Quaternary Fault and Fold Database for the United States, accessed August 2008, from USGS website: http://earthquakes.usgs.gov/regional/qfaults/.

The presence of the fault systems are considered in the 2008 USGS National Seismic Hazard Maps, which will be used for future editions of the International Building and Residential Codes. The building code standards shall generally be considered adequate to address the surface faulting hazards in the city; nevertheless, further study

and mitigation is not precluded from being required through the SEPA process when conditions warrant.

2. Regulation. Applications for development potentially within a seismic hazard area susceptible to ground shaking (Site Class D to E and higher ratings), settlement (fill areas), or liquefaction ("moderate to high" or "high" rating) shall be accompanied by a geotechnical report prepared by a geologist or geotechnical engineer licensed as a civil engineer with the state. If it is satisfactorily demonstrated that such a seismic hazard does not exist on the site, the requirements of this section may be waived. This section is intended for use primarily at the planning stage of development, such as in conjunction with the review of a proposed subdivision, conditional use permit, etc. If development is limited to a building permit (no SEPA or land use permit), a seismic risk analysis, pursuant to the requirements of the most recently adopted edition of the International Building or Residential Code, shall be conducted and the geotechnical report requirements of this section may be waived.
3. Geotechnical Report Requirements. The required report shall evaluate the existing site conditions, including geologic, hydrologic and site capability to accommodate the proposed activity. At a minimum, the following shall be included:
   a. Analysis of subsurface conditions;
   b. Delineation of the site subject to seismic hazards; and
   c. Analysis of mitigation measures that may be employed to reduce or eliminate seismic risks, including an evaluation of the effectiveness of mitigation measures.
4. Implementation. Project development shall be required to implement all recommended requirements of the geotechnical report referenced in subsection 3 of this section, and any additional requirements as determined by the City's Shoreline Administrator. If the hazard cannot be fully mitigated, the development may be denied. Compliance with the seismic requirements of the current and future editions of the International Building and Residential codes, as applicable at the time of application for development, is required for all construction in seismic hazard areas.

AA. Flood hazard areas

Areas which are prone to flooding and which are identified in the Federal Emergency Management Administration flood insurance rate maps for the city of West Richland (September 30, 1981) shall be subject to the requirements of this section.

1. Regulation. All development within flood hazard areas shall be subject to the requirements of the City of West Richland flood hazard construction standards in SMP

Chapter 4: General Regulations, Section 4 and WRMC Chapter 18.16 - Flood Damage Prevention (2006).

BB. Maintenance of existing structures

Structures and facilities lawfully existing prior to the adoption of the ordinance codified in this Appendix shall be allowed to be maintained and repaired without any additional review procedures under this title (other titles and permits may still apply); provided, the maintenance or repair activity itself remains consistent with the provisions of this Appendix and does not increase its nonconformity of such structures or facilities. Additionally, such construction activity shall not prove harmful to adjacent properties. Maintenance consists of usual actions necessary to prevent a decline, lapse, or cessation from a lawfully established condition. Repair consists of the restoration of a structure or facility comparable to its original condition within two years of sustaining damage or partial destruction. Maintenance and repair shall include damage incurred from accident, fire or the elements. Total replacement of a structure or facility, which is not common practice, does not constitute repair. In addition to the requirements of this section, the requirements of WRMC Chapter 17.72 – Nonconforming Use (2007) shall apply.

CC. Performance bonding

As part of any mitigation plan that is not fully completed prior to commencing the proposed development activity, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city to insure mitigation is completed and successful.

1. The performance bond or other security shall be 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.
2. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the city attorney.
3. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of three years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

4. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or owner to complete required mitigation, maintenance, monitoring, or restoration.
5. Public development proposals shall be relieved from having to comply with the bonding requirements of this section.
6. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due, or to comply with other provisions of an approved mitigation plan, shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the municipal code or any other law.
7. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

DD. Suspension – Revocation – Compliance monitoring

In addition to other penalties provided elsewhere, the City's Shoreline Administrator may suspend or revoke an approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.

To assist in the enforcement of this Appendix, the city may require or perform periodic monitoring of critical area sites and their buffers before, during, and after any permitted development activity on or near a critical area. Such monitoring should include photos, land use surveys, and other documentation of the condition of the critical area and its buffer.

EE. Penalties and enforcement

1. The City's Shoreline Administrator shall have authority to enforce this Appendix, any rule or regulation adopted, and any permit, order, or approval issued pursuant to this Appendix, against any violation or threatened violation thereof. The City's Shoreline Administrator is authorized to issue violation notices and administrative orders, levy fines and/or institute legal actions in court. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Appendix, or any rule or regulation adopted, or any permit, permit condition, approval, or order issued pursuant to this Appendix shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense. All costs, fees, and

expenses in connection with enforcement actions may be recovered as damages against the violator.

2. The City's Shoreline Administrator may serve upon a person a cease and desist order if any activity being undertaken in a designated critical area or its buffer is in violation of this Appendix. Whenever any person violates this Appendix or any approval issued to implement this Appendix, the City's Shoreline Administrator may issue an order reasonably appropriate to cease such violation and to mitigate any environmental damage resulting therefrom.
3. Any person who undertakes any activity within a designated critical area or within a required buffer without first obtaining an approval required by this Appendix, except as specifically exempted, or any person who violates one or more conditions of any approval required by this Appendix or of any cease and desist order issued pursuant to this Appendix may incur a civil penalty as provided for in WRMC Chapter 17.81 – Administration and Enforcement (2007).
4. The city's enforcement of this Appendix shall proceed according to SMP Chapter 6: Administration Section K: Enforcement and Penalties, WRMC Chapter 17.81 – Administration and Enforcement (2007), Shoreline Management Act 90.58.200 and .210, and WAC 173-27 Part II.