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CHAPTER 1. INTRODUCTION

1.1 Purpose and Responsibility

Washington’s Shoreline Management Act (SMA; RCW 90.58) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The SMA was created in response to a growing concern among residents of the state that serious and permanent damage was being done to shorelines by unplanned and uncoordinated development. The goal of the SMA was “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” While protecting shoreline resources by regulating development, the SMA is also intended to provide for appropriate shoreline use by encouraging land uses that enhance and conserve shoreline functions and values.

The SMA has three broad policies:

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

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

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

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

1.2 Title

This document shall be known and may be cited as the Woodway Shoreline Master Program (the “Program”, “Master Program” or “SMP”).

1.3 Adoption Authority

This Master Program is adopted under the authority granted by the Act and WAC Chapter 173-26.

1.4 Applicability

All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program. The policies and regulations of this Program apply to all shoreline uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required. The Town of Woodway has the authority and responsibility to condition a project even if it is exempt from the requirement for a substantial development permit. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
1.5 Liberal Construction

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

1.6 Severability

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

1.7 Point Wells

In addition to the Town’s shoreline, the SMP update will consider and plan for the Town’s Municipal Urban Growth Area (MUGA), Point Wells. Point Wells is a 61-acre tract owned by the Alon Corporation/Blue Square Real Estate. It is currently within unincorporated Snohomish County. If annexed by the Town of Woodway, the goals, policies and regulations of this program would be applied to Point Wells.

1.8 Shoreline Jurisdiction

SMA jurisdiction includes all “shorelines of the state” as defined in RCW 90.58.030. In Woodway, the shoreline area to be regulated by the Town’s SMP includes:

- The Puget Sound shore within both the Town’s municipal boundary and its Municipal Urban Growth Area (MUGA) known as Point Wells (Figure 2).
- The open water and tidelands extending to the middle of the Sound;
- The upland area landward 200 feet of the OHWM (roughly equivalent to the Mean Higher High Water or MHHW); and
- All associated wetlands.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is “associated” if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as a surface or groundwater connection.

The SMA further designates some shorelines as “shorelines of statewide significance”. These “shorelines of statewide significance” include portions of Puget Sound and other marine water bodies, rivers with mean annual flow of 1,000 cfs or greater, and freshwater lakes 1,000 acres or larger. Consistent with RCW 90.58.020 and .090, the SMA raises the status of “shoreline of statewide significance” by establishing specific preferences for uses and calling for a higher level of effort in implementing the objectives of the SMA.
1.9 Document Organization

The SMP establishes long-term planning goals and policies, specific development standards and use regulations, and permitting and administrative procedures. As such, the SMP is a stand-alone document that is linked to other town planning documents such as the Woodway Comprehensive Plan and to the Woodway Municipal Code (WMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides Background, purpose and legal authority.
- Chapter 2. Master Program Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Environment Designations: establishes a purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Use Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Modification Policies and Regulations – Establishes policies and regulations of shoreline modification activities and structures.
- Chapter 7. Specific Use Policies and Regulations – Point Wells: establishes policies and regulations of specific uses in the Point Wells shorelines.
- Chapter 8. Administrative Procedures: provides procedures and process for permit applications associated with shoreline development.
- Chapter 9. Definitions: provides definitions for terms used throughout the SMP.
CHAPTER 2. SHORELINE VISION AND GOALS

2.1 Shoreline Vision
To preserve, protect and restore the ecological functions necessary to maintain shoreline natural resources while encouraging beneficial uses of the shoreline for the community.

2.2 Shoreline Goals

2.2.1 Shoreline Use
Ensure that the land use pattern in the Town’s shorelines protect the existing character of the Town and protect existing shoreline environments, habitat, and ecological systems.

Within Point Wells promote water-oriented uses and locate activities and development in areas that will be compatible with adjacent uses and will protect and enhance existing shoreline habitats and ecological systems.

2.2.2 Public Access
Protect the public’s opportunity to enjoy the physical and aesthetic qualities of the shorelines, including views of the Puget Sound.

Ensure an adequate supply of safe public access to the Puget Sound shoreline within Point Wells.

2.2.3 Recreation
In Point Wells, encourage water-oriented recreation opportunities and maximize public recreational opportunities of the shoreline.

2.2.4 Circulation
Limit new circulation systems to those that serve allowed uses and limit the size of facilities to the minimum necessary.

Maintain adequate safety, environmental, and aesthetic standards for existing transportation systems within the shoreline jurisdiction.

2.2.5 Conservation
Preserve and protect ecological functions and processes necessary to maintain shoreline natural resources, protect public health and safety, and preserve beneficial uses of the shoreline.

Avoid foreseeable risks from geological hazards to people and improvements by recognizing that erosion of marine bluffs is a natural processes and by recognizing how the BNSF Railroad and armored shoreline alter the function and ecological quality of marine nearshore environment.

Maintain or improve water quality and storm water quantity entering the Puget Sound and integrate shoreline goals with the Town’s Comprehensive Stormwater Plan. Recognize that land use and water management activities on adjacent uplands affect the quality of the Town’s waters and shorelines.
2.2.6 Restoration

Restore and enhance ecological functions and processes necessary to maintain shoreline natural resources, protect public health and safety, and preserve beneficial uses of the shoreline.

In point Wells, strive for a net gain in ecological productivity in the nearshore intertidal and estuarine habitat areas.

2.2.7 Archeological, Historical and Cultural Resources

Identify, preserve, protect and restore buildings, sites, or areas of the shoreline that have historic, cultural, archeological, scientific, or educational value.

2.2.8 Flood Hazard Management

Protect the Town of Woodway from losses and damage created by flooding along the coast.
CHAPTER 3. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

3.1 Shoreline Jurisdiction

SMA jurisdiction includes all “shorelines of the state” as defined in RCW 90.58.030. In Woodway, the shoreline area to be regulated by the Town’s SMP includes:

- The Puget Sound shore within both the Town’s municipal boundary and its Municipal Urban Growth Area (MUGA) known as Point Wells (Figure 2).
- The open water and tidelands extending to the middle of the Sound;
- The upland area landward 200 feet of the OHWM (roughly equivalent to the Mean Higher High Water or MHHW); and
- All associated wetlands.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is “associated” if all or a portion of the wetland falls within that area that is 200 feet from the ordinary high water mark. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as a surface or groundwater connection.

In administering this Program, the Ordinary High Water Mark (OHWM) shall be determined through a site-specific investigation using field indicators consistent with the definition in Chapter 9 and RCW 90.58.030(2)(c).

3.2 Shorelines of Statewide Significance

3.2.1 Designation of Shoreline of Statewide Significance

The SMA designates some shorelines as “shorelines of statewide significance”. These “shorelines of statewide significance” include portions of Puget Sound and other marine water bodies, rivers with mean annual flow of 1,000 cfs or greater, and freshwater lakes 1,000 acres or larger. Consistent with RCW 90.58.020 and .090, the SMA raises the status of “shoreline of statewide significance” by establishing specific preferences for uses and calling for a higher level of effort in implementing the objectives of the SMA.

In the Town of the Woodway and its MUGA, shorelines of statewide significance include the open water areas of Puget Sound lying seaward from the line of extreme low tide. The shorelands landward of extreme low tide do not meet the criteria of RCW 90.58.030(2)(e) for designation as a shoreline of statewide significance, and are considered shorelines of the state. Figure 1 demonstrates this division:
3.2.2 Management Policy

The following policies are hereby adopted for shorelines of statewide significance in Woodway, consistent with RCW 90.58.020. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines, including uses that:

1. Recognize and protect the statewide interest over local interest.
2. Preserve the natural character of the shoreline.
3. Result in long term over short term benefit.
4. Protect the resources and ecology of the shoreline.
5. Increase public access to publicly owned areas of the shoreline.
6. Increase recreational opportunities for the public in the shoreline.
7. Provide for any other element as defined in RCW 90.58.100, Programs as Constituting Use Regulations, deemed appropriate or necessary.
8. Uses that are not consistent with these policies should not be permitted on shorelines of statewide significance.

3.3 Shoreline Environment Designations

The objective of this Master Program is to provide reasonable and understandable guidelines to anyone seeking a permit for shoreline development. Therefore, in accordance with the SMA, this Master Program establishes three shoreline environments: “Urban Conservancy,” “Point Wells Urban” and “Aquatic” environments as depicted on Figure 2. Shoreline environment designations are based on shoreline ecological functions, existing development patterns, potential for restoration, and community aspirations. The general boundaries of Woodway’s environments are:

1. Urban Conservancy – includes all shorelands within the Town’s municipal boundary
2. Point Wells Urban – Includes all shorelines with the Point Wells MUGA
3. Aquatic - Includes all shoreline areas waterward of the OHWM.

For each shoreline environment designation a purpose, designation criteria, and general management policies are provided. Any areas within the Town’s shoreline jurisdiction that have not been mapped and designated shall be designated Urban Conservancy and will be managed and regulated under the identified goals, policies, and regulations of the Urban Conservancy designation.

3.3.2 Urban Conservancy

A. Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions, including properly functioning conditions for protected, threatened and endangered (PTE) species and ecological functions in urban and developed settings, while allowing a variety of water-oriented uses.
B. Designation Criteria
The area designated as Urban Conservancy includes the shorelines within the Municipal boundaries of the Town of Woodway landward of the OHWM.

C. Management Policies

1. The primary allowed uses should preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term.

2. Create development standards for setbacks, buffers, shoreline stabilization, vegetation conservation and enhancement, critical areas protection, and water quality to assure no net loss of shoreline ecological functions, and contribute to the restoration of ecological functions over time in areas where ecological degradation has occurred.

3. Activities and uses that would substantially degrade or permanently deplete the physical or biological resources of the area should be prohibited.

4. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the environment and the setting.

3.3.3 Point Wells Urban

A. Purpose
The Point Wells Urban shoreline environment designation is for the Point Wells shoreline area that is currently within unincorporated Snohomish County. The purpose of the environment is to accommodate higher density uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. An additional purpose is to provide appropriate public access and recreational uses.

B. Designation Criteria
The Point Wells urban designation includes the shoreline jurisdiction within the Point Wells MUGA landward of the OHWM.

C. Management Policies

1. Within the Point Wells Urban environment, first priority should be given to water dependent and public access uses. Second priority should be given to water related and water enjoyment uses. Non water oriented uses should not be allowed except as part of mixed use developments.

2. New development should be designed and located to preclude the need of shoreline armoring, flood control structures, vegetation removal, and other shoreline modifications.

3. Shoreline use and modification policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new
development shall include environmental cleanup and restoration of the shoreline in accordance with applicable state and federal laws.

4. Non residential developments should be required to provide visual and physical public access to the shoreline where feasible.

5. Aesthetic objectives, such as preserving views and ensuring that building massing is compatible with adjacent uses should be implemented for all developments by means such as appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

6. Multi-family, multiple lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

8. Commercial development should be limited to water oriented uses.

3.3.4 Aquatic

A. Purpose

The purpose of the “Aquatic” environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

B. Designation Criteria

The “Aquatic” environment designation is appropriate for all lands waterward of the marine ordinary high-water mark in the Town of Woodway and Point Wells.

C. Management Policies

1. New overwater structures should be prohibited. Repairs or maintenance should be allowed on existing overwater structures, provided that overwater coverage is not increased and light penetrating design techniques are used if appropriate.

2. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of existing overwater facilities should be encouraged. Existing overwater facilities should support water-oriented uses.

4. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
5. Uses that adversely impact the ecological functions of critical saltwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.
FIGURE 2. Shoreline Environment Designations
CHAPTER 4. GENERAL USE POLICIES AND REGULATIONS

4.1 General

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

4.2 Shoreline Use

4.2.1 Policies

1. Water-dependent uses that preserve shoreline ecological functions and processes are preferred shoreline uses. Secondary preference is given to water-related and water-enjoyment uses, and to those uses that enhance public access to the shoreline or include elements of shoreline restoration.

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

3. Uses and development which include restoration of shoreline areas that have been degraded as a result of past activities is highly encouraged.

4. Site plans and structural designs for shoreline development should acknowledge the water’s proximity and value as an ecological and scenic resource through avoiding view blockage, orienting development toward the shoreline and other similar measures.

4.2.2 Regulations

1. All uses in the shoreline shall comply with the Town’s development code (WMC Titles 11-16) and this Program.

2. The shoreline use table (Table 1) defines those uses that are permitted and those uses that are only permitted as a conditional use. All unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

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

4.3 Environmental Protection and Critical Areas

4.3.1 Policies

1. The Town should preserve, enhance, and/or protect critical areas in shoreline jurisdiction for their ecological functions and values, as well as their aesthetic, scenic, and educational qualities.
2. Development should provide a level of protection to critical areas within the shoreline that achieves no net loss of ecological functions.

3. This program should ensure that marine ecological functions are maintained or improved in the long term through effective implementation of the Town’s Critical Areas ordinance.

4. All shoreline use and development should avoid and minimize adverse impacts to ensure no net loss of ecological functions and processes from current conditions.

5. Project-specific and cumulative impacts should be considered in assessing the potential for net loss of ecological functions and processes.

6. Proponents of development should require mitigation proportionate and related to the expected impacts of the proposed development.

4.3.2 Regulations

A. Marine Shoreline Buffers

1. Because development in the Town’s shoreline (the Urban Conservancy Environment) is severely limited by steep coastal bluffs, conformance with the Town’s geological hazards buffers as defined in WMC 16.10.610 and adopted into this Program per SMP 4.3.2(B) shall provide adequate protection to the Marine shoreline to achieve no net loss of ecological functions.

2. Within the Point Wells Urban Environment, a standard buffer of 150 feet from the OHWM shall be established. The Shoreline buffer shall be maintained in a predominantly natural undisturbed, undeveloped, and well-vegetated condition except for the uses described below.

3. The following specific uses and activities may be allowed in the shoreline buffer provided they comply with all provisions of this Program:

   a. Water-oriented public access and recreational uses, including trails and/or pedestrian/bicycle paths; provided, that such development is operated, located, designed and constructed to minimize and, where possible, avoid disturbance to shoreline functions and native vegetation to the maximum extent feasible; or

   b. Mitigation, restoration, or enhancement actions that have been approved by the Town and which comply with all of the provisions of this Program.

B. Environmentally Critical Areas

1. The Town of Woodway Environmentally Critical Areas Regulations, as codified in WMC 16.10 (Ordinance No. 09-503, approved May 4, 2009), are herein incorporated into this Program except as noted.
2. Exceptions to the applicability of the Town of Woodway Environmentally Critical Areas Regulations within shoreline jurisdiction are as follows:

a. The permit process and application requirements of WMC 16.10.120 shall not apply in the shoreline jurisdiction. Use and development proposals in the shoreline shall comply with the permit processing and application requirements in Chapter 8 of this Program.

b. Development applications that are processed according to the Reasonable Use provisions of WMC 16.10.070 shall require a Shoreline Variance according to Section 8.5.5 of this Program and WAC 173-27.

c. The procedural provisions, including interpretations, penalties and enforcement, and appeals, within shoreline jurisdiction shall be governed by this Program and not WMC 16.10.040.

d. The buffer width variance provisions of WMC 16.10.150 shall not apply. Exceptions to Critical Area and Buffer Standards shall only be allowed as described in Section 4.3.2(A)(3) of this Program.

e. Activities that are exempt from critical areas regulation per WMC 16.10.050 (CAO exemptions section) shall comply with this Program. Such activities may require a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit unless this Program and RCW 90.58.030(3)(e) specifically indicate the activity is exempt from shoreline substantial development permit requirements.

f. The wetland buffer averaging provision of WMC 16.10.310(C)(5) shall not apply in shoreline jurisdiction. Wetland buffer widths may only be reduced to 25 percent as part of an approved wetland buffer averaging without a shoreline variance.

g. Wetlands, streams and marine waters are subject to various state and federal regulations in addition to this Program. Although some category IV wetlands are not subject to the provisions of WMC 16.10, they may be subject to other state and/or federal regulations. Applicants proposing development that could affect wetlands, streams or marine waters are advised to consult the Washington State Department of Ecology and the U.S. Army Corps of Engineers for regulatory requirements.

h. A proponent of any new shoreline use or development shall mitigate adverse environmental impacts to achieve no net loss of ecological functions consistent with WAC 173-26-201(2)(e), whether or not the use/development requires a shoreline substantial development permit or is exempt from a shoreline permit.

i. Wetlands in shorelines are regulated solely under WMC 16.10.300 through 16.10.340 and this Program and shall not be subject to WMC 16.10.500 through WMC 16.10.540.
j. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements consistent with WAC 173-22-035.

k. The presence of hydric soils in the shoreline shall be determined in accordance with the approved federal wetland delineation manual and applicable regional supplements, or as revised by the Washington State Department of Ecology.

l. Mitigation for impacts to wetland within shoreline jurisdiction shall occur in the following prioritized order:

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

ii. 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;

iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

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

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

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

m. In addition to the mitigation monitoring and maintenance requirements of WMC 16.10.230, mitigation projects in the shoreline shall include ten (10) years of monitoring for scrub shrub or forested plantings and five (5) years of monitoring for herbaceous plantings.

n. The wetland mitigation ratio tables in WMC 16.10.320(E) shall not apply in the shoreline. Impacts to wetlands within the shoreline shall be replaced at the following ratios:

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Creation or re-establishment</th>
<th>Restoration or Rehabilitation</th>
<th>Enhancement</th>
<th>Preservation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category I</td>
<td>6:1</td>
<td>8:1</td>
<td>16:1</td>
<td>20:1</td>
</tr>
<tr>
<td>Category II</td>
<td>3:1</td>
<td>6:1</td>
<td>12:1</td>
<td>20:1</td>
</tr>
<tr>
<td>Category III</td>
<td>2:1</td>
<td>4:1</td>
<td>8:1</td>
<td>15:1</td>
</tr>
<tr>
<td>Category IV</td>
<td>1.5:1</td>
<td>3:1</td>
<td>6:1</td>
<td>10:1</td>
</tr>
</tbody>
</table>
o. In addition to the mitigation performance standard in WMC 16.10.330(B)(11), plantings in mitigation sites within the shoreline shall also require two (2) years of watering to ensure establishment.

p. If the provisions of the Critical Areas Regulations and other parts of this Program conflict, the provisions of this Program shall prevail.

4.4 Archeological, Historic and Cultural Resources

4.4.1 Policies

1. Due to the limited and irreplaceable nature of the resource, public or private uses and activities should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities.

2. The Town should work with tribal, federal, state, and local governments to maintain an inventory of known local archeological, historical, and cultural sites. The location of historical, cultural and archeological sites should not be disclosed to the general public, consistent with applicable state and federal laws.

3. Development on sites having or adjacent to archeological, historical or cultural resources should be planned and carried out so as to prevent impacts to the resource. The Town should endeavor to involve tribal governments and the State Department of Archaeology and Historic Preservation (DAHP) in the review of development projects that could adversely affect such resources.

4.4.2 Regulations

1. If any archeological artifacts are uncovered during excavations in the shoreline, work must stop and the Town of Woodway, affected Indian Tribes, and the State Department of Archeology and Historic Preservation must be notified.

2. Permits issued in areas known or highly suspected to contain archeological artifacts and data shall have provisions providing for a site inspection and evaluation by an archeologist in coordination with affected Indian Tribes prior to initiation of disturbance and for monitoring of potentially disruptive activities. Cost for inspection and evaluation of the site will be the responsibility of the applicant. Significant archeological data or artifacts shall be recovered before work begins or resumes on a project.

4.5 Restoration and Enhancement

4.5.1 Policies

1. The Town should encourage and facilitate cooperative restoration and enhancement programs between local, state and federal public agencies, tribes, non-profit organizations, and landowners.
2. Identify specific restoration opportunities where the Town can take the lead with support from other regional entities.

3. Incorporate habitat enhancement elements into the design and implementation of public infrastructure improvement projects.

4. Where feasible, the Town should enhance or restore areas that are biologically and/or aesthetically degraded while maintaining appropriate use of the shoreline.

5. Consideration should be made for potential adverse effects of global climate change and sea level rise when designing restoration and remediation projects.

6. Require development proposals to integrate hazardous substance remediation into development projects.

4.5.2 Regulations

1. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and used in a manner that observes the critical area regulations of WMC 16.10 and assures compatibility with other shoreline uses.

2. Ecological restoration projects shall be carried out in accordance with a Town-, county-, or resource agency-approved restoration plan and in accordance with the policies and regulations of this Program.

4.6 Water Quality

4.6.1 Policies

1. Stormwater should be managed consistent with the Town’s Stormwater Comprehensive Plan, storm and surface water regulations (WMC Title 11) and the Comprehensive Plan.

2. Encourage the implementation of capital improvement projects identified by the Woodway Stormwater Comprehensive Plan.

3. Implement low impact development techniques through incentives provided to increase on-site infiltration of stormwater where site soil, geology and groundwater conditions are appropriate.

4. Effective erosion/sedimentation controls for construction in shoreline areas should be required.

5. The Town should discourage the use of fertilizers and herbicides adjacent to shorelines.

4.6.2 Regulations

1. Shoreline use and development shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality in accordance with the Town’s
Stormwater Management Regulations (WMC Title 11), Stormwater Comprehensive Plan, Comprehensive Plan and other applicable laws.

2. All materials that may come in contact with water shall be composed of non-toxic materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

4.7 Shoreline Vegetation Conservation

4.7.1 Policies

1. Preserve natural vegetation by controlling plant clearing and earth grading within the shoreline jurisdiction for new development and maintenance of existing facilities in a manner that ensures no loss of ecological functions.

2. Promote vegetation restoration, and the control of invasive weeds and nonnative species to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

3. Encourage restoration or enhancement of native shoreline vegetation through incentives and non-regulatory programs to insure the conservation of the ecological functions provided by shoreline vegetation.

4.7.2 Regulations

1. To conserve and maintain shoreline vegetation, shoreline uses and development shall comply with the buffer standards established in WMC 16.10.140 and adopted into this Program (Sections 4.3.2(A) and (B)); tree preservation regulations in WMC 16.12; and the setback standards established in WMC 14.24.040.

2. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type similar to that which originally occurred on-site.

4.8 Clearing and Grading

4.8.1 Policies

1. Clearing and grading should only be allowed in the shoreline in conjunction with a permitted use or development, unless otherwise allowed in this Program.

2. Disturbance to and removal of native soils should be minimized within shorelines.

3. Uses and site design should incorporate protection or re-establishment of the maximum amount of native vegetation on a particular site.
4.8.2 Regulations

1. Clearing and grading activities shall only be permitted as part of an authorized activity or as part of a ecological restoration or enhancement project.

2. All clearing and grading shall achieve no net loss of ecological functions.

3. All clearing and grading activities shall meet the following standards:
   a. All clearing and grading activities shall be limited to the minimum necessary for the intended development;
   b. Exposed soils shall be immediately developed or re-vegetated to prevent erosion;
   c. Exposed soils must be replanted such that complete coverage of exposed soils is attained within one growing season, or otherwise stabilized using mulch or other BMPs.

4.9 View Protection

4.9.1 Policies

1. Development, uses and activities on or near the shoreline should not impair or detract from the public's visual access to the water.

2. Public views from the shoreline and upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.

3. Development in shoreline areas should consider the scale, arrangement and modulation of site buildings and elements to achieve a balance of open space and development.

4. Visual access should be maintained, enhanced and preserved on shoreline street ends, public utilities and rights-of-way and within designated "view corridors."

4.9.2 Regulations

1. Shoreline uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access to the water and shorelines except as provided for in the Section 4.7 of this Program, Shoreline Vegetation Conservation.

2. Public lands such as street ends, rights-of-way and utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.

3. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.
4. Visual access shall be maintained, enhanced and preserved on shoreline street ends, public utilities and rights of way and within identified “view corridors.”

5. Visual access to shorelines shall be required of new development, consistent with Section 4.5 of this Program.

6. Lighting shall be directed and shielded to avoid off-site glare and impacts to fisheries.

**4.10 Prohibited Uses**

The following uses are prohibited in all shoreline environments:

1. Agricultural uses
2. Aquaculture
3. Forestry practices
4. Industrial uses
5. Mining

**4.11 Unclassified Uses**

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Section 8.5.6 of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this program and RCW 90.58.020.

**4.12 Shoreline Use Table**

All uses and developments in the Woodway Shoreline jurisdiction shall comply with the use regulations contained in the following table. Refer to the text section of this Program for all applicable provisions related to specific uses and development standards.
Table 1

Town of Woodway – Permitted Shoreline Uses

Land uses must be allowed in the underlying zoning district in additional to the Shoreline Environment Designation. See WMC Title 14 for specific land uses allowed in zoning districts. All uses are subject to limitations, conditions and/or exceptions as provided in this program and the Woodway Land Use Code.

<table>
<thead>
<tr>
<th>Uses</th>
<th>Shoreline Environment Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Conservancy</td>
</tr>
<tr>
<td>Agriculture</td>
<td>X</td>
</tr>
<tr>
<td>Aquaculture</td>
<td>X</td>
</tr>
<tr>
<td>Boating Facilities (Marinas, launches, piers, docks, floats and buoys)</td>
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</tr>
<tr>
<td>Marinas</td>
<td></td>
</tr>
<tr>
<td>Boat Launches</td>
<td>X</td>
</tr>
<tr>
<td>Buoys</td>
<td>N/A</td>
</tr>
<tr>
<td>Piers, Docks, and Floats</td>
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</tr>
<tr>
<td>Commercial</td>
<td></td>
</tr>
<tr>
<td>Water-oriented</td>
<td>X</td>
</tr>
<tr>
<td>Non-water-oriented</td>
<td>X</td>
</tr>
<tr>
<td>Industrial</td>
<td>X</td>
</tr>
<tr>
<td>Forest Practices</td>
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</tr>
<tr>
<td>Habitat Restoration and Enhancement</td>
<td>P</td>
</tr>
<tr>
<td>Mining</td>
<td>X</td>
</tr>
<tr>
<td>Recreation</td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td></td>
</tr>
<tr>
<td>Detached Single-family</td>
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</tr>
<tr>
<td>Multi-family &amp; Mixed Use</td>
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</tr>
</tbody>
</table>

P = Permitted use subject to policies and regulations of Program

C = Conditional use subject to polices and regulations of this Program

X = Prohibited use

¹ X/C represents a conditional use subject to policies and regulations of Program and Woodway Land Use Code.

² C² represents a conditional use subject to policies and regulations of Program.

³ X³ represents a prohibited use subject to policies and regulations of Program.
<table>
<thead>
<tr>
<th>Uses</th>
<th>Shoreline Environment Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban Conservancy</td>
</tr>
<tr>
<td>Roads$^4$</td>
<td>X/C$^3$</td>
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<tr>
<td>Railways</td>
<td>C$^3$</td>
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<tr>
<td>Utilities</td>
<td>C</td>
</tr>
<tr>
<td>Shoreline Modifications</td>
<td></td>
</tr>
<tr>
<td>New shoreline stabilization$^6$</td>
<td>C</td>
</tr>
<tr>
<td>Maintenance of Existing armoring</td>
<td>C</td>
</tr>
<tr>
<td>Breakwaters, Jetties, Groins, and Weirs</td>
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</tr>
<tr>
<td>Dredging</td>
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<tr>
<td>Restoration-related</td>
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<td>Fill and Excavation</td>
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<tr>
<td>Restoration-related</td>
<td>P</td>
</tr>
<tr>
<td>Non-restoration related</td>
<td>X</td>
</tr>
</tbody>
</table>

P = Permitted use subject to policies and regulations of Program  
C = Conditional use subject to policies and regulations of this Program  
X = Prohibited use

Notes:
1. Marinas are prohibited in the aquatic environment adjacent to the urban conservancy environment and are allowed by conditional use permit adjacent to the Point Wells Urban designation.
2. Any permitted buoy would require a DNR license, and WDFW and ACOE approval.
3. Non-water-oriented commercial uses are allowed as part of a mixed-use development that includes a water-oriented use as its primary use.
4. The only new roads allowed in the shoreline shall be roads necessary to access permitted uses and shall be limited to the minimum size necessary.
5. Repair and expansion of existing transportation facilities is allowed as a conditional use and shall not result in a loss of shoreline function.
6. Shoreline stabilization is allowed as a conditional use only where there is a demonstrated and immediate threat to an existing structure from landslide or erosion caused by tidal action, currents, or waves.
CHAPTER 5. SHORELINE MODIFICATION

5.1 Shoreline Stabilization

5.1.1 Policies

1. New hard shoreline stabilization structures should be prohibited in Point Wells. New hard shoreline stabilization structures may be allowed as a conditional use in the Town of Woodway in cases where a legally existing structure is in imminent danger from landslide or erosion.

2. Where allowed, stabilization measures should use non-structural or soft shore bank stabilization techniques.

3. Proposals to repair existing shoreline stabilization structures should include measures to enhance existing conditions for fish and wildlife, shoreline vegetation, water quality, and sediment transport.

4. The Town should expedite approval of development projects that remove or soften bulkheads or bank armoring and revegetate the shoreline with native vegetation.

5. All shoreline uses and developments should be located and designed to prevent the need for shoreline protection structures (bulkheads, riprap, etc.). The Town should not allow new uses, the creation of new lots or the construction of new development where it would be reasonably foreseeable that the development or use would require structural bank stabilization during the life of the use or development.

5.1.2 Regulations

1. The Town shall not allow new uses, the creation of new lots or the construction of new development where it would be reasonably foreseeable that the development or use would require structural bank stabilization during the life of the use or development.

2. New hard shoreline stabilization structures are prohibited in the Point Wells Urban Environment (Point Wells). New hard shoreline stabilization structures may be allowed as a conditional use in the Urban Conservancy Environment (Town of Woodway) in cases where there is a demonstrated threat to an existing structure from landslide or erosion caused by tidal action, currents, or waves and then only as a conditional use.

3. The need for new structural shoreline stabilization shall be demonstrated by a geotechnical analysis, which includes, at a minimum, documentation that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard shore armoring techniques for shoreline stabilization.
4. An existing shoreline stabilization structure may be repaired or replaced as a conditional use with a similar structure if there is a demonstrated need to protect an existing use or structure from landslide or erosion provided:

a. The repair or replacement is designed, located, sized, and constructed to assure no net loss of ecological functions.

b. The repair or replacement structure does not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992.

c. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, it is removed as part of the replacement measure.

5. For purposes of this section "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.

6. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a legally established existing structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need for armoring is so great that it would foreclose on the opportunity to utilize measures that avoid or minimize impacts to ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft shore stabilization measures.

7. Shoreline vegetation shall be protected and restored along or near marine shorelines to protect and restore the ecological functions and ecosystem-wide processes and to protect human safety and property.

8. Shoreline modification may be allowed for environmental restoration or if the Town determines that there will be a net increase in desired shoreline ecological functions.

9. When any structural shoreline stabilization measures are demonstrated to be necessary, the following criteria shall be met:

a. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses;

b. The proposed structural stabilization is the minimum size necessary and is designed to assure no net loss of shoreline ecological functions; and
c. Potential impacts have been mitigated to achieve no net loss of shoreline functions.

d. Public access shall be required as part of any publically financed shoreline stabilization or structural flood hazard reduction measures.

10. Jetties, groins, and breakwaters shall be prohibited in all environments.
CHAPTER 6. TOWN OF WOODWAY SHORELINE POLICIES AND REGULATIONS

6.1 Public Access/Recreation

6.1.1 Policies

1. Legal and safe public access and recreational opportunities in the Woodway shoreline are limited by the BNSF right-of-way and steep coastal bluffs. The Town should focus on preserving and enhancing public views of the Puget Sound to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of and from the water.

2. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and, where no significant environmental impacts or threats to public safety will occur, enhanced.

3. The Town should pursue any opportunity to provide safe and legal physical access to the water’s edge.

4. Any public access or recreational development should be located and designed to assure no net loss of shoreline ecological functions

6.1.2 Regulations

1. Development in the shoreline shall preserve public views of the shoreline.

6.2 Residential Use

6.2.1 Policies

1. Residential development in the Town of Woodway’s shoreline jurisdiction is limited to properties located at the top of the coastal bluff. Residential development including accessory structures within the shoreline jurisdiction should be allowed provided they are developed consistent with all Town regulations including required building setbacks and the geologic hazard areas provisions of the Town’s Environmentally Critical Areas regulations (WMC 16.10.600 through 16.10.650) as adopted in SMP Section 4.3.

2. Accessory structures such as accessory dwelling units, swimming pools, sport courts and other structures should be located and designed to minimize impervious surface and be visually and physically compatible with shoreline features.

3. Development should at a minimum achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

6.2.2 Regulations

1. Residential development and accessory structures shall be allowed in the shoreline provided development activities are consistent with Section 4.3 (adoption of critical
area regulation) of this program and the underlying zoning as described in WMC Title 14.

2. Residential development and accessory structures shall not be located or designed such that new structural shore or slope defense measures are necessary.

3. Residential development shall retain and protect natural vegetation of the shoreline area, or restore and enhance natural vegetation according to the Vegetation Conservation and Land Clearing and Grading provisions of this Program.

4. All residential structures, accessory uses and facilities shall be arranged and designed so as to preserve views and vistas to and from shorelines and water bodies and be compatible with the aesthetic values of the area.

5. In order to limit impervious surface in the shoreline, no structure shall cover more than one hundred fifty (150) square feet within the Town’s shoreline jurisdiction.

6.3 Boating Facilities

6.3.1 Policies

1. New boating facilities including marinas, boat launches, piers, docks, and floats should be prohibited.

2. One buoy per residential shoreline property should be allowed in the aquatic environment as a conditional use, provided the installation and use of moorage buoys is consistent with all applicable state and federal laws and regulations.

6.3.2 Regulations

1. Marinas and boat launches are prohibited.

2. New docks, piers and floats are prohibited.

3. Moorage buoys may be allowed as a conditional use.

4. Moorage buoys shall require permits or approvals from the following state and federal agencies: Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (DNR), and the U.S. Army Corps of Engineers. The installation and use of moorage buoys shall comply with all applicable state and federal laws and regulations.

5. Mooring buoys shall be located, spaced and oriented so as not to pose a hazard or obstruction to navigation or fishing.

6. Moorage buoys shall be limited to one per residential shoreline property.

7. Moorage buoys shall be located to avoid sensitive nearshore habitat areas and shall not result in the degradation of water quality or habitat areas.
6.4 Transportation

6.4.1 Policies

1. New transportation facilities in the shoreline jurisdiction are discouraged. Repair and maintenance of existing transportation facilities should be allowed as a conditional use.

2. All transportation related development should be carried out in a manner that minimizes or mitigates any impacts to shoreline functions and ensures no net loss of shoreline functions.

3. Joint use of transportation corridors within shoreline jurisdiction for utilities should be encouraged.

4. Abandoned or unused road or railroad rights-of-way that offer opportunities for public access to the water should be acquired and/or retained for such use.

5. All debris, overburden and other waste materials from transport facility construction or operation should be handled, contained and disposed of in a manner which prevents their entry into adjacent beaches and water bodies.

6.4.2 Regulations

1. New transportation facilities are prohibited in the shoreline. Expansion of existing transportation facilities is allowed as a conditional use and shall not result in a loss of shoreline function.

2. Transportation and utility facilities shall make joint use of rights-of-way and minimize adverse impact to the shoreline.

3. Transportation uses and development shall be carried out in a manner that maintains or improves State water quality standards for receiving waters through implementation of state and Town stormwater regulations.

4. Overburden, debris and other waste materials from both construction and operation of transportation facilities shall not be deposited into or sidecast on the shoreline side of roads or in water bodies, wetlands, estuaries, tidelands, accretion beaches and other natural areas. Such material shall be contained and disposed of in a manner which prevents their entry into adjacent beaches and water bodies.

5. All shoreline areas disturbed by construction or maintenance activities shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding, mulching or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained until established. Dead or dying vegetation shall be replaced in a prompt and timely manner to ensure rapid establishment. Long-term monitoring of vegetation and bonding or other financial security may be required to ensure long-term survivability of vegetation required as part of a project.
6.5 Utilities

6.5.1 Policies

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.

2. Utilities should be prohibited in wetlands, estuaries, critical wildlife areas, steep slopes or other unique and fragile areas unless no feasible alternatives exist.

3. New utility facilities should be located so as not to require shoreline protection works.

4. Utility facilities and corridors shall be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or alongside or under bridges.

5. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

6.5.2 Regulations

1. New utility uses or developments shall not be allowed in the shoreline unless they are required for an authorized shoreline use, or they have a water-dependent component such as an outfall.

2. Improvements or expansions of existing utility uses and development in the shoreline shall be allowed provided they do not result in loss of ecological functions, all impacts are mitigated, and that they comply with all other provisions of this Program.

3. Utility production and processing facilities and transmission facilities shall locate outside of the shoreline jurisdiction, unless no other feasible alternative exists.

4. New utility conveyance lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or where such placement would cause substantial environmental impact. Existing above ground lines shall be moved underground during normal replacement processes where undergrounding would reduce visual impacts but not result in a loss of ecological functions.

5. Utility developments shall be located and designed so as to avoid the use of structural shoreline stabilization.

6. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

7. Clearing of vegetation for the installation or maintenance of utilities shall be minimized and disturbed areas shall be restored following project completion consistent with the requirements of Town’s stormwater management regulations and all other provisions of this Program.
8. The following utility facilities, which are not essentially water-dependent, are prohibited in shoreline jurisdiction unless it can be shown that no reasonable alternative exists or unless the Town Council finds the project has substantial public benefit which outweighs the potential impacts on shoreline ecology. In such cases, the facility must be authorized by conditional use permit:

   a. water system treatment plants;

   b. sewage system lines, interceptors, pump stations and treatment plants;

   c. electrical energy generating plants, substations, lines and cables;

   d. petroleum and gas pipelines.

9. New solid waste disposal sites and facilities are prohibited.
Chapter 7. POINT WELLS SHORELINE POLICIES AND REGULATIONS

The policies and regulations of this Chapter apply to Point Wells, which comprises the Town’s Municipal Urban Growth Area (MUGA). Point Wells is currently within unincorporated Snohomish County and subject to the development regulations and standards of the County. The policies and regulations of this Chapter would only be applicable to shoreline development in Point Wells upon annexation to the Town of Woodway.

7.1 Public Access/Recreation

7.1.1 Policies

1. Provide public access as part of any development project by a public entity, and for all private commercial development, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

2. Provide public access as part of new multiple-family residential development, and new subdivisions of more than four parcels, unless access is infeasible due to safety, impacts to shoreline ecology, or legal limitations.

3. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and where no significant environmental impacts or threats to public safety will occur, enhanced.

4. Require public access improvements commensurate with the scale and character of the development and adjoining development. Requirements should be reasonable, effective and fair to all affected parties including but not limited to the land owner and the public.

5. Public access should be located and designed to assure no net loss of shoreline ecological functions.

6. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

7. In locating new public access facilities, the rights of private property owners should be acknowledged and protected.

7.1.2 Regulations

1. Public access shall be incorporated into all development proposals on public lands or funded by a public entity.

2. Public access shall be incorporated into all non-water-dependent private commercial uses/developments and all residential subdivisions of greater than four (4) lots when the following conditions exist:
a. The development would generate demand for one or more forms of public shoreline access; and/or

b. The development would eliminate, restrict, or otherwise impair existing legal access opportunities or rights.

3. Public access shall not be required in areas where the applicant demonstrates that one or more of the following provisions apply:

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

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

   c. Significant environmental impacts would result from the public access that cannot be mitigated; and/or

   d. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

4. In order to meet any of the conditions "a" through "d" above, the applicant must first demonstrate, and the Town determine in its findings, that all reasonable alternatives have been exhausted, including but not limited to:

   a. Regulating access by such means as maintaining a gate and/or limiting hours of use;

   b. Separating uses and activities (e.g. fences, terracing, use of one-way glazings, hedges, landscaping, etc.); and

   c. Developing provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.

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

6. Public access shall consist of a dedication of land and physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, or other area serving as a means of view and/or physical approach to shorelines of the state and may include interpretive centers and displays.

7. Public access locations shall be clearly marked with visible signage.

8. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).
9. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

### 7.2 Residential

#### 7.2.1 Policies

1. Development of residential units should result in no net loss of ecological function.

2. Single-family residential development or the subdivision of land into single-family lots should not be allowed.

3. New buildings within shoreline jurisdiction shall be set back sufficiently to ensure that shoreline stabilization will not be needed.

4. House boats or any overwater residential development should be prohibited.

5. Residential development on shorelines which would be dependent on future bulkheading or other shoreline modifications for protection from flooding, erosion or channel migration should not be allowed.

6. Access, utilities and public services should be available and adequate to serve existing needs and planned future residential development.

7. Residential development should be designed at a level of density that is compatible with the adjoining uses and the physical capabilities of the shoreline.

8. Multiple-family residential development of more than four (4) units, should be required to provide public pedestrian access to and along the waterfront within the project where appropriate.

9. Residential developments should be designed to adequately protect the water and shoreline aesthetics.

10. Residential proposals should be required to provide plans that ensure the preservation of existing native vegetation and the control of erosion, to the greatest extent possible.

11. Sewage disposal, water supply and storm drainage facilities should be provided in full compliance with Town and State health regulations.

12. In mixed-use buildings, residential units should occupy the upper floors of structures while the ground floors should be occupied by water-oriented uses.

13. Parking for residential development should be underground, located on uplands or on the street/landward side of the building.

#### 7.2.2 Regulations

1. Residential development shall achieve no net loss of ecological function.
2. Single-family residential development and the subdivision of land for single-family lots shall be prohibited.

3. Residential structures shall not be approved when structural flood protection or shoreline stabilization measures will be necessary to protect development.

4. Sewage disposal, water supply and storm drainage facilities shall be provided in full compliance with Town and State health regulations.

5. Public access consistent with Section 7.1 of this Program shall be included in any multiple-family or mixed-use development of four or more dwelling units.

6. Removal or modification of existing shoreline vegetation shall be the minimum necessary to construct the structure, and will be replaced per an approved landscape plan, with appropriate native species within the next growing season.

7. Residential uses shall not be permitted on the ground floor of mixed-use structures.

8. Outdoor parking areas shall be located on the street/landward side of residential units.

7.3 Commercial

7.3.1 Policies

1. Commercial development should be designed and located so as to avoid or minimize impacts to shoreline ecological functions.

2. Preference should be given to commercial developments which include water dependent and water related uses and activities as primary uses within shoreline areas.

3. New commercial development along shorelines must incorporate innovative designs, including low impact development approaches, so that the footprint of the facility is minimized along the shoreline.

4. Parking, storage, loading and service areas and facilities serving commercial uses should minimize their visual impact on the shorelines, utilize low impact development techniques and be placed a minimum of 200 feet away from the immediate water's edge.

5. New commercial development and related accessory uses should ensure that all runoff is contained and treated prior to discharge.

6. Commercial projects should be designed to minimize impacts to both views of the shoreline and views from the water. Building orientation, height and the creation of view corridors should be considered in design.

7. Commercial uses should be compatible in use, scope and scale with adjacent uses and neighboring communities.
7.3.2 Regulations

1. Commercial uses and developments shall achieve no net loss of ecological functions.

2. New non-water-oriented commercial uses are prohibited, unless the use is part of a mixed-use project that supports water-oriented uses and provides a significant public benefit with respect to the public access and restoration goals of this Program.

3. All commercial development shall be required to provide public access consistent with Section 7.1 of this Program.

4. In construction of commercial uses, it is the intent of the Town to require that all permitted commercial uses, either through the nature of their use, their design and location, and/or through provisions for public access, take full advantage of the waterfront setting to maximize views of the shoreline both for the commercial use and for the general public, and enhance the aesthetic value of the shoreline through appropriate design treatments. An applicant for a commercial use shall demonstrate the following:

a. That the proposed development will be designed and oriented to take advantage of the waterfront site and the water view;

b. That the proposed development will be designed to maximize to the greatest extent feasible public view and public access to and along the shoreline, as provided in Section 7.1 of this Program;

c. That the proposed development will be designed to be compatible with existing and/or proposed uses and plans for adjacent properties;

d. That landscaping for proposed developments will receive special consideration to screen unsightly aspects of their operation from the public view but to minimize blockage of the existing water scenic view; and

e. That the proposed development will be designed to be compatible with the character of the Shoreline District in which it is located.

7.4 Boating Facilities

7.4.1 Policies

1. New boat launches should be prohibited. Launches for non-motorized boats may be allowed as a conditional use.

2. Docks, piers, floats and buoys associated with residential development should be prohibited.
3. Public docks and/or piers may be allowed as a conditional use, provided they are located and constructed in a manner that would not adversely affect water quality, nearshore habitat and that required mitigation consistent with section 4.3.2 would assure no net loss of shoreline functions.

4. Repairs or modifications to existing docks should only be allowed in cases where it can be demonstrated that the repairs or modifications would improve wildlife habitat and water quality and improve or increase light penetration.

7.4.2 Regulations

1. New marinas, motorized boat launches, boat houses and covered moorage are prohibited.

2. New docks, piers, and floats associated with residential development are prohibited.

3. Public piers, docks and floats may be allowed as a conditional use, provided they are located and constructed consistent with the following regulations:
   a. Piers, docks and floats shall not extend into the Puget Sound in such a manner as to impede navigation or create any navigation hazard.
   b. All work avoids or, if that is not possible, minimizes and mitigates all identifiable impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes, such as currents and littoral drift, in accordance with guidance provided by WAC 13-26-221(2)(c) (iii) and (iv).
   c. Piers, docks and floats shall not be located on or over critical saltwater habitats or spawning areas for anadromous fish.
   d. Piers, docks and floats shall not be located on or over nearshore accretion areas, such as sandflats, mudflats and pocket estuaries.
   e. Piers, docks and floats shall avoid, or if that is not possible, mitigate aesthetic impacts.

4. Construction of new public docks, piers or floats shall comply with the following dimensional standards:
   a. Construction materials that come in direct contact with the water shall not be treated or coated with toxic materials. Untreated wood, precast concrete, plastic or nontoxic alternatives shall be used;
   b. A public dock or pier shall have a total overwater area not to exceed 1,000 square feet and shall extend beyond the OHWM no further than 110 feet; and
   c. The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage.
5. The Town may permit a dock, pier or float with different dimensions, through a shoreline variance, if it can be demonstrated that the proposal would not result in a net loss of shoreline ecological function.

6. Repair, maintenance, or rehabilitation of existing piers, docks or floats shall be allowed given adherence to the following standards:
   a. No expansion of overwater coverage is allowed;
   b. No increase in the size or quantity of pilings is allowed;
   c. Light transparency must be increased;
   d. All in-water work shall avoid or, if that is not possible, minimize and mitigate all identifiable impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift, in accordance with guidance provided by WAC 13-26-221(2)(c) (iii) and (iv). Impact minimization shall include the use of construction materials approved by applicable state agencies; and
   e. Proposed work shall not result in loss of ecological functions.

7. Moorage buoys may be allowed as a conditional use, provided consistency with the following regulations
   a. Moorage buoys shall require permits or approvals from the following state and federal agencies: Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (DNR), and the U.S. Army Corps of Engineers. The installation and use of moorage buoys shall comply with all applicable state and federal laws and regulations.
   b. Mooring buoys shall be located, spaced and oriented so as not to pose a hazard or obstruction to navigation or fishing.
   c. Moorage buoys shall be located to avoid sensitive nearshore habitat areas and, with required mitigation, shall not result in a net loss in shoreline ecological functions.

7.5 Transportation

7.5.1 Policies

1. New transportation facilities should be located outside of shoreline jurisdiction unless there is no reasonably feasible alternative alignment or location or they are required to access a permitted use. In these situations, they should be the minimum width possible and not result in a loss of ecological functions.

2. New and expanded transportation facilities should be designed and located away from shoreline areas so as to ensure no net loss of shoreline ecological functions.
3. Encourage joint use transportation corridors by consolidating transportation and utility facilities in shared rights-of-way when they must cross shoreline areas.

4. Locate and design new and expanded transportation facilities so as to avoid the need for structural shoreline stabilization.

5. Require development and redevelopment within shoreline areas to manage stormwater impacts consistent with the Town’s stormwater comprehensive plan and regulations (WMC Title 11).

6. Locate and design new circulation systems consistent with the Snohomish County and Town of Woodway comprehensive plans to provide for alternative modes of transportation in the shoreline jurisdiction.

7. Encourage creation of trail systems adjacent to new roads and railroads where feasible and safe.

8. When necessary in shoreline areas, transportation facilities should be located where routes will have the least impact to shoreline ecological functions.

9. Provide safe pedestrian and other non-motorized travel facilities in public shoreline areas.

10. Parking is not a preferred shoreline use and should be allowed only to support a use authorized under this Program.

11. Parking facilities should be located outside of shoreline jurisdiction or as far landward from the ordinary high water mark as feasible. When located within shoreline jurisdiction, the location and design of parking facilities should:
   a. Minimize visual and environmental impacts to adjacent shoreline and critical areas.
   b. Provide for pedestrian access through the facility to the shoreline; and
   c. Facilitate public access to and enjoyment of the shoreline.

12. Parking, storage, loading and service areas and facilities serving commercial uses should minimize their visual impact on the shorelines, utilize low impact development techniques and be placed outside of the shoreline, wherever possible.

7.5.2 Regulations

1. New transportation facilities may be located within shoreline jurisdiction only when alternative locations are not feasible, and if permitted, they should be the minimum width needed for access.

2. Transportation facilities shall cross shoreline jurisdiction by the most direct route feasible, unless such a route would result in greater impacts on wetlands and fish and wildlife habitat conservation areas than a less direct route.
3. Transportation facilities that cross over watercourses or wetlands shall utilize elevated, open pile or pier structures whenever feasible.

4. Parking and loading facilities necessary to support an authorized shoreline use may be allowed in shoreline areas only when:
   a. The applicant can demonstrate that no other alternative location is feasible to serve the primary use of the site; or
   b. The parking or loading facility is needed to accommodate public access pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.
   c. All of the following conditions shall be met when a parking facility is proposed in the shoreline jurisdiction:
      i. The facilities shall be located landward from the primary building or use being served, except when the parking facility is within or beneath the structure and adequately screened;
      ii. Shoreline stabilization measures will not be necessary to protect the facility; and
      iii. The facility will not result in a net loss of ecological functions.

7.6 Utilities

7.6.1 Policies

1. The design and location of utility facilities should provide for no net loss of shoreline ecological functions.

2. Utility production and processing facilities, such as power plants and sewage treatment plants or parts of such facilities that are non-water oriented should not be located in shoreline areas unless there is no feasible alternative location.

3. Utility transmission facilities should be located outside of shoreline areas, to the maximum extent feasible.

4. Utility lines and facilities, when they must be placed in a shoreline area, should not obstruct or destroy scenic views. Whenever feasible, these facilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.

5. Location of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions, should not be allowed unless there is no feasible alternative.
6. Utility installation or maintenance projects on shorelines should restore areas to pre-project configuration, replant with native species and provide maintenance care until the newly planted vegetation is established.

7. Utility facilities should be located within existing transportation rights-of-way in shoreline areas whenever feasible.

8. Major utility facilities should be located and designed to be compatible with other uses of the water and shorelines and in a manner that preserves the natural landscape and shoreline ecology.

7.6.2 Regulations

1. Utility facilities shall be located outside of shoreline jurisdiction whenever feasible. When located within shoreline jurisdiction, utility facilities shall result in no net loss of shoreline ecological functions;

2. Utility facilities shall be designed and located as follows:
   a. Non-water dependent and non-water related above-ground generating facilities, switching complexes, pumping stations, treatment plants, storage tanks, towers and substations shall be set back from the ordinary high water mark at least 200 feet;
   b. Utility transmission facilities shall be located in existing rights-of-way whenever possible and cross shoreline jurisdiction by the most direct route feasible, unless an alternative route would result in less impact on shoreline ecological functions;
   c. Utility facilities shall not parallel a water body unless located in an existing improved transportation or utility corridor, and provided that underground facilities do not adversely impact hyporheic exchange;
   d. Utility transmission lines, pipes and wires entering or leaving a body of water shall be bored or buried below the surface of the water body's bed from the ordinary high water mark out to a minimum water depth of minus ten feet (-10 feet) below mean lower low water. Directional boring, instead of excavation or trenching, is required where feasible;
   e. Utility facilities shall not be located on feeder bluffs or in critical saltwater habitat unless no feasible alternative exists and all adverse impacts can be mitigated.
CHAPTER 8. ADMINISTRATIVE PROVISIONS

8.1 General Compliance

1. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the WMC, chapter 90.58 RCW, the Shoreline Management Act and this Master Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

2. The Town shall not issue any permit for development within shoreline jurisdiction until approval has been granted pursuant to the adopted Program.

3. A development or use that does not comply with the bulk, dimensional and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

4. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

5. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or Town laws or regulations.

6. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Town Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Town Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

7. The Town shall not issue a permit for any new or expanded building or structure that exceeds a height of thirty five (35) feet above average grade level that will obstruct the view of a substantial number of residences except with a shoreline variance, provided an applicant can demonstrate overriding considerations of the public interest will be served.

8.2 Administrative Authority and Responsibility

1. Town Administrator

   a. The Town Administrator or his/her designee shall have the authority to act upon the following matters:
i. Interpretation, enforcement, and administration of the Town’s Shoreline Master Program as prescribed in this Program

ii. Application for a shoreline exemption as prescribed in this Program;

iii. Applications for Shoreline Management Substantial Development Permits as prescribed in this Program;

iv. Applications for Shoreline Conditional Use Permits as prescribed in this Program;

v. Applications for Shoreline Variances as prescribed in this Program;

vi. Modifications or revisions to any of the above approvals.

8.3 Administration

1. All proposed uses and development occurring This Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

2. Shoreline substantial development permits and shoreline conditional use permits shall be subject to all of the applicable requirements of WMC 14A.

3. Shoreline variances shall be processed in the same manner as variance from the Town’s zoning code and shall be subject to all applicable provisions of WMC 2.56 and 14A.

4. Appeals of the final decision of the Town with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

5. Appeals to the Shoreline Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180.

6. The effective date of the Town’s decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

8.4 Enforcement, Violations and Penalties

1. The Town Administrator is authorized to enforce the provisions of this title, the ordinances and resolutions codified in it, and any rules and regulations promulgated there under pursuant to the enforcement and penalty provisions of WAC 173-27.

2. This Program will be enforced by the means and procedures set forth in WMC 1.14.
8.5 Shoreline Permits and Exemptions

8.5.1 Shoreline Substantial Development Permit Required

1. Substantial development, as defined by this program and RCW 90.58.030, shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Town Administrator. A shoreline substantial development permit shall be required for all proposed use and development of shorelines unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.

2. The Town Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58; the provisions of this WAC 173-27; and this Program.

3. The Town Administrator is authorized to grant a shoreline substantial development permit when all of the criteria enumerated in WAC 173-27-150 are met.

8.5.2 Exemptions from a Substantial Development Permit

1. Uses and developments that are not considered substantial developments pursuant to RCW 90.58.030(3)(e), WAC 173-27-040 (List of Exemptions), and SMP Section 8.3.3 shall not require a substantial development permit but shall conform to the policies and regulations of this Program.

2. If any part of a proposed development is not eligible for exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and SMP Section 8.3.3, then a substantial development permit is required for the entire proposed development project.

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

4. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

8.5.3 Exemptions Listed

The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit but shall obtain a statement of exemption, as provided for in Section 8.5.2 and required in Section 8.5.2:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen dollars ($5,718.00), if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average
consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For 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;

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

3. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the state department of fish and wildlife.

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the Town Administrator to be the appropriate
means to address the emergency situation, upon abatement of the emergency situation
the new structure shall be removed or any permit which would have been required,
absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or this
Program, shall be obtained. All emergency construction shall be consistent with the
policies of chapter 90.58 RCW and this Program. As a general matter, flooding or other
seasonal events that can be anticipated and may occur but that are not imminent are
not an emergency;

5. Construction or modification of navigational aids such as channel markers and anchor
buoys;

6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family
residence for their own use or for the use of their family, which residence does not
exceed a height of thirty-five feet above average grade level and which meets all
requirements of the Town and state agency or local government having jurisdiction
thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-
family residence" means a detached dwelling designed for and occupied by one family
including those structures and developments within a contiguous ownership which are a
normal appurtenance. An "appurtenance" is necessarily connected to the use and
enjoyment of a single-family residence and is located landward of the ordinary high
water mark and the perimeter of a wetland. On a statewide basis, normal
appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic
tank and drainfield and grading which does not exceed two hundred fifty cubic yards
(250 cy) and which does not involve placement of fill in any wetland or waterward of the
ordinary high water mark. Local circumstances may dictate additional interpretations of
normal appurtenances which shall be set forth and regulated within the applicable
master program. Construction authorized under this exemption shall be located
landward of the ordinary high water mark;

7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or
other facilities that now exist or are hereafter created or developed as a part of an
irrigation system for the primary purpose of making use of system waters, including
return flow and artificially stored ground water from the irrigation of lands;

8. The marking of property lines or corners on state-owned lands, when such marking does
not significantly interfere with normal public use of the surface of the water;

9. Operation and maintenance of any system of dikes, ditches, drains, or other facilities
existing on September 8, 1975, which were created, developed or utilized primarily as a
part of an agricultural drainage or diking system;

10. Any project with a certification from the governor pursuant to chapter 80.50 RCW
(certification from EFSEC);

11. Site exploration and investigation activities that are prerequisite to preparation of an
application for development authorization under this chapter, if:

   a. The activity does not interfere with the normal public use of the surface waters;
b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;

d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to pre-existing conditions; and

e. The activity is not subject to the permit requirements of RCW 90.58.550 (Oil & Natural Gas Exploration in Marine Waters);

12. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter 43.21C RCW;

13. Watershed restoration projects as defined in Chapter 9. The Town shall review the projects for consistency with this Program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

14. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

a. The project has been approved in writing by the department of fish and wildlife;

b. The project has received hydraulic project approval by the state department of fish and wildlife pursuant to chapter 77.55 RCW; and

c. The Town has determined that the project is substantially consistent with the shoreline master program. The Town shall make such determination in a timely manner and provide it by letter to the project proponent.

8.5.4 Statement of Exemption

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Town Administrator for such an exemption in the manner prescribed by the Town Administrator.
2. The Town Administrator is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in SMP Section 8.3.3. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Town Administrator’s analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and the Department. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

8.5.5 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in RCW 90.58.020 and this program.

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

3. Consistent with 2.56.080, The Hearing Examiner is authorized to grant a variance from the performance standards of this Program only when all of the criteria in WMC 14.50.050 and the following criteria are met (WAC 173-27-170):

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;

   b. That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant’s own actions;

   c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;

   d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

   e. That the variance requested is the minimum necessary to afford relief; and

   f. That the public interest will suffer no substantial detrimental effect.
4. Before making a determination to grant a shoreline variance, the Town shall consider issues related to the conservation of valuable natural resources, and the protection of views from nearby public roads, surrounding properties and public areas.

5. A variance from Town development code requirements shall not be construed to mean a shoreline variance from shoreline master program use regulations and vice versa.

6. Shoreline variances may not be used to permit a use or development that is specifically prohibited in an environment designation.

8.5.6 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner which will be consistent with the policies of RCW 90.58, particularly where denial of the application would thwart the policies of the Shoreline Management Act.

2. When a conditional use is requested, the Town Administrator shall be the final approval authority for the Town. However, shoreline conditional uses must have approval from the state. The Department of Ecology shall be the final approval authority under the authority of WAC 173-27-200.

3. Conditional use permits shall be authorized only when they are consistent with the following criteria:
   a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;
   b. The use will not interfere with normal public use of public shorelines;
   c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Program;
   d. The public interest will suffer no substantial detrimental effect;
   e. Consideration has been given to cumulative impact of additional requests for like actions in the area.

4. Other uses not specifically set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by this Program shall not be authorized.
5. The burden of proving that a proposed shoreline conditional use meets the criteria of this program in WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

6. The Town is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

**8.5.7 Ecology Review**

1. Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Town Administrator, whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Town Administrator shall file the following with the Department of Ecology and Attorney General:
   a. A copy of the complete application per WAC 173-27-180;
   b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
   c. The final decision of the Town;
   d. The permit data sheet per WAC 173-27-990;
   e. Affidavit of public notice; and
   f. Where applicable, the Town Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).

2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

3. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the Town and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.

4. Ecology shall convey to the Town and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days (30) of the date of submittal by the Town. The Town Administrator will notify those interested persons having requested notification of such decision.
5. Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and the criteria listed in this Program.

8.5.8 Minimum Permit Application Submittal Requirements

1. Pursuant to WAC 173-27-180, All applications for a shoreline substantial development permit, conditional use or variance shall provide, at a minimum, the following:

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

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

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

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

   e. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived.

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

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

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

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

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

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

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

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

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

vi. 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.

vii. Where applicable, a landscaping plan for the project.

viii. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

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

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

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

xii. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

xiii. On all 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.
8.5.9 Non-conforming Uses

1. Uses and developments that were legally established prior to approval of this program by the Washington State Department of Ecology and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded or expand their non-conformity.

2. A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use.

3. A structure for which a 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.

4. A nonconforming structure which is moved any distance must be brought into conformance with the SMP and the SMA.

5. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized through a conditional use permit.
CHAPTER 9. DEFINITIONS

9.1.1 Definitions

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

2. Accretion. Accretion means the gradual extension of land by natural forces, as in the addition of sand to a beach by ocean currents, or the extension of a floodplain through the deposition of sediments by repeated flooding. Included are such shore forms as barrier beaches, points, spits, and hooks.

3. Accessory structure. Accessory structure means any detached structure that is incidental and subordinate to a primary use and located on the same lot as the primary use. Garages, boathouses, barns, storage sheds, gazebos, docks, piers, floats, buoys, and other appurtenances are examples of structures that are typically accessory to a different primary use.

4. Accessory use. Accessory use means use of land or of a building or portion thereof incidental and subordinate to the principal use and located on the same lot with the principal use. Private moorage and other recreational uses are examples of uses that are accessory to residential development.

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

6. Appurtenance. Appurtenance means a structure or development which is necessarily connected to the use and enjoyment of a single-family residence. “Normal appurtenance” means a garage, boat house, deck, driveway, utilities, fences, and grading which does not exceed 250 cubic yards (WAC 173-14-040 (1)(g) or its successor). Appurtenances must be landward of the ordinary high water mark (OHWM).

7. Aquaculture. Aquaculture means the farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater, and may include development such as structures, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wildstock geoduck on state-owned lands. Wildstock geoduck harvest is a fishery. Aquaculture does not include recreational shellfish harvesting for personal use and consumption; harvesting for educational projects; or improvements of habitats.
8. Associated Wetlands. Associated Wetlands means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

9. Backfill. Backfill means the placement of earth or rocks or other introduced material behind a retaining wall or structure.

10. Bank. Bank means a steep rise or slope at the edge of a body of water or water course.

11. Beach nourishment. Beach nourishment means the artificial replenishing of a beach by delivery of materials dredged or excavated elsewhere.

12. Boating Facilities. Boating facilities includes marinas, including foreshore and backshore types, dry storage and wet-moorage types, covered moorage, boat launches, docks, piers and floats.

13. Boat Launch. A Boat launch is an area developed for boating ingress and egress from the water.


15. Bulkhead. A Bulkhead is a solid or open pile wall of rock, concrete, steel or timber or other materials or a combination of these materials erected generally parallel to and near the OHWM for the purpose of protecting adjacent uplands from waves or currents.

16. Building setback. Building setback means a line which establishes a definite point as determined by the minimum required distance between a structure and a specified line such as a lot, easement or buffer line, beyond which the foundation of a building shall not extend.

17. Clearing. Clearing means the destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

18. Commercial use. Commercial use means structures or sites whose primary function is to support the exchange of money for goods or services. Excluded from this definition are home occupations, industrial development and utilities.

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

20. Critical Areas. Critical areas are those areas with especially fragile biophysical characteristics and/or with significant environmental resources. These areas include, but are not limited to: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.
21. Development. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level;

22. Dock. Dock means a structure that abuts the shoreline and floats upon the water and is used as a landing or moorage place for recreational purposes.

24. Dredging. Dredging means the 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 shellfish harvesting or for cleanup of polluted sediments.

25. Drift cell. Drift cell means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

26. Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem. See WAC 173-26-200(2)(c).

27. Excavation. Excavation means the mechanical removal of earth material.

28. Exempt. Exempt development means a use or development activity that is not required to obtain a substantial development permit under RCW 90.58.030(3)(e) and WAC 173-27-040, but which must otherwise comply with applicable provisions of the Act and this Master Program and which must obtain an exemption permit from the Planning Director/Manager per IMC 18.10.950. Conditional Use, Variance, or other permits may also still be required even though the activity does not require a Substantial Development Permit.

29. Feasible. Feasible means, for the purpose of this program, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

a. The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated 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 use. In cases where these guidelines require certain actions unless they are infeasible, the burden
of proving infeasibility is on the applicant. In determining an action’s infeasibility, the Town may weigh the action’s relative public costs and public benefits, considered in the short- and long-term time frames. This evaluation shall give special consideration and precedence to protecting PFC for PTE species.

30. 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.

31. Feeder bluff. Feeder bluff means any bluff or cliff experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These natural sources of beach material are limited and vital for the long term stability of driftways and accretion shoreforms.

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

33. Float. Float means a structure comprised of a number of logs, boards, barrels, etc., fastened together into a platform capable of floating on water, used as a landing or moorage structure for swimming purposes. Floats are either attached to a pier or are anchored to the bed lands so as to allow free movement up or down with the rising or falling water levels.

34. Flood plain. The flood plain is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon Flood Insurance Regulation Maps (FIRM).

35. Floodway. The floodway is 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 conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover conditions. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limits of the floodway are based on flood regulation ordinance maps or by a reasonable method which meets the objectives of the SMA (RCW 90.58.030(2g); WAC 173-22-030(3)).

36. Foreshore. Foreshore means, in general terms, the beach between mean higher high water and mean lower low water.
37. Forest Practices. Forest practice means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting of timber, or the processing of timber, including but not limited to: road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control.

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

39. Grading. 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.

40. Groin (also referred to as a spur dike or rock weir)” means a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials.


42. Habitat. Habitat means the place or type of site where a plant or animal naturally or normally lives and grows.

43. Hearings Board. Hearings Board means the shorelines hearings board established by the Shoreline Management Act of 1971.

44. Height. Height is the distance measured from the 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 it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the master program provides otherwise).

45. Impervious Surface. Impervious Surface means a surface which greatly reduces or stops the transmission of water, including, but not limited to, asphalt and Portland cement paving, paving blocks, compacted soils and gravel for parking areas, rooftops, or any man-made material that impedes the flow of water and is permanently fixed to the ground. Lattice work paving systems which have a portion of their area open to the subgrade shall not be considered impervious as to the portion which is open.
46. Jetty. Jetty means a structure(s) usually projecting out into the sea at the mouth of a river for the purpose of protecting a navigation channel, a harbor or to influence water currents.

47. Letter of Exemption. A letter of exemption means a letter or other official certificate issued by the Town to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

48. Littoral. Littoral means living on, or occurring on, the shore.

49. Lot. Lot means any tract or parcel of land shown on an officially recorded short plat or long plat or a parcel of land officially recorded or registered as a unit of property and described by platted lot number or by metes and bounds and lawfully established for conveyancing purposes on the date of recording of the instrument first referencing the lot.

50. Marina. Marina means a water dependent use that consists of a system of piers, buoys or floats to provide moorage for ten or more boats.

51. Marine. Marine means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

52. Master Program. Master Program means the comprehensive shoreline master program for the Town of Woodway, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

53. May. May means the action is acceptable, provided it conforms to the provisions of WAC 173-26 and this Program.

54. Mitigation. Mitigation means:
   a. Avoiding the impact altogether by not taking a certain action or parts of an action;
   b. Minimizing impact 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 during the life of the action;
   e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; or
f. Monitoring the impact and taking appropriate corrective measures.

55. Moorage Buoy. Mooring Buoy means a floating object anchored to the bottom of a water body to which vessels may be tied.

56. Native shoreline vegetation. Native shoreline vegetation means vegetation comprised of plant species, other than noxious weeds, which are indigenous to Pacific Northwest lowlands and that reasonably could have been expected to naturally occur on the site.

57. No Net Loss. No Net Loss means a standard intended to ensure that shoreline development or uses, whether permitted or exempt, are located and designed to avoid loss or degradation of shoreline ecological functions. The standard is met when proposed uses or developments are in compliance with the provisions of this master program. In cases where unavoidable loss results from allowed uses or developments, the standard is met through appropriate mitigation, consistent with the provisions of this master program.

58. Nonconforming use or Development. Nonconforming use or development means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the applicable SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP.

59. Non-water Oriented Use. Non-water oriented use means any use that does not meet the definition of a water-dependent, water-related, or water-enjoyment use.

60. Normal Protective Bulkhead. A normal protective bulkhead is a bulkhead, common to single-family residences, constructed at or near the ordinary high water mark to protect an existing single-family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2)(c)).

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

62. Ordinary High Water Mark (OHWM). OHWM means 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 hereafter in accordance with permits issued by the Town or the Department of
Ecology. Provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide. On a site-specific basis, the Department of Ecology has the final authority on determining where the ordinary high water mark is located.

63. Outfall. Outfall means the outlet or place of discharge of a stormwater collection or sanitary sewer system.

64. Permit. Permit means a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance issued in compliance with the Shoreline Management Act of 1971 and this Program.

65. Pier. Pier means a structure that abuts the shoreline and is built over the water on pilings and is used as a landing or moorage place for recreational purposes.

66. Preferred Shoreline Use. Preferred Shoreline Use is identified in the Act as a use that is unique to or dependent upon a shoreline location. Water-dependent, water-related, and water-enjoyment uses are preferred shoreline uses. Single-family residential development is also preferred use according to the Act.

67. Prohibited. Prohibited means some developments and uses are viewed as inconsistent with the definition, policies or intent of the shoreline environment designation. For the purposes of this program, these uses are not considered appropriate and are not allowed, including by Conditional Use or Variance.


69. Public Access. Public access means the public’s ability to view, get to and/or use the State’s public waters, the water/land interface and associated public shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.

70. Primary Structure. Primary structure means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest assessed value shall be considered the primary structure.

71. Recreation. Recreation means the refreshment of body and mind through forms of play, amusement or relaxation.

72. Restore. Restore, restoration, and ecological restoration mean the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.
73. Revetment. Revetment means a facing of stone or concrete built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

74. Riprap. Riprap means a layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also the stone so used.

75. Road. Road means a linear passageway, usually for motor vehicles. Bridges are roads which cross over water.

76. Sediment. Sediment means the fine grained material deposited by water or wind.

77. Setback. Setbacks including front, rear and side yard means the distance from the eaves or other projections of the building to the nearer of the lot boundary line or, where there is a street, right-of-way, access easement or private road through the lot, the edge of the street, right-of-way, access easement or private road nearest the building.

78. Shall. Shall means a mandate; the action must be done.

79. Shoreline Armoring. Shoreline armoring refers to bulkheads, riprap and similar hard structures installed along the shore to stabilize the bank and prevent erosion.

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

81. Shorelands or Shoreland Areas. Shorelands or shoreland areas means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with streams, lakes, and tidal waters which are subject to the provisions of this Program; the same to designated as to location by the Department of Ecology.

82. Shoreline Jurisdiction. Shoreline jurisdiction means all "shorelines of the state" and "shorelands."

83. Shoreline Modifications. Shoreline Modifications means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a bulkhead, or other shoreline structure. Shoreline modifications can include other actions, such as clearing, grading, or application of chemicals.

84. Shorelines of Statewide Significance. Shorelines of Statewide Significance means those shorelines described in RCW 90.58.030. The Puget Sound shoreline is a shoreline of statewide significance.
85. Shorelines. Shorelines means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

86. Shorelines of the State. Shorelines of the state are the total of all ‘shorelines’ and ‘shorelines of statewide significance’ within the Town of Woodway.

87. Shoreline Buffer. Shoreline buffer means the area adjacent to a shoreline that separates and protects the area from adverse impacts associated with adjacent land uses.

88. Shoreline Stabilization. Shoreline stabilization means actions taken to prevent or mitigate erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind or wave action. Shoreline stabilization includes structural armoring approaches such as bulkheads and revetments and nonstructural approaches such as bio-engineering.

89. Should. Should means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Program, against taking the action.

90. Soft-shore bank stabilization. Soft-shore bank stabilization or bioengineering means project designs or construction methods which use living plant material or a combination of living plant material and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

91. Substantial Development, Shoreline. Substantial Development means any development of which the total cost, or fair market value, whichever is higher, exceeds the dollar threshold established or as hereafter adjusted for inflation by the state office of financial management pursuant to WAC 173-27-040(2)(a), or any development which materially interferes with the normal public use of the water or shorelines of the state.

92. Tidelands. Tidelands means the land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

93. Town. Town means the Town of Woodway.

94. Transportation Use. Transportation use means a use whose primary purpose is the movement and circulation of people, goods, and services. This includes, but is not limited to public roads, rails, parking areas, non-motorized travel corridors, trails, and similar features.

95. Upland. Upland means generally the area above and landward of the ordinary high water mark, not including wetlands and other waters of the state.
96. Utilities. Utilities are facilities which produce, store, collect, treat, carry, discharge, or transmit electric power, water, storm drainage, gas, sewage, reclaimed water, communications, or other public services. Accessory utility facilities are those associated with delivery of such public services to support individual uses and developments, such as distribution or service lines.

97. Variance, Shoreline. A variance means a type of shoreline permit intended to grant of relief from the specific bulk, dimensional, or performance standards set forth in this Program and not a means to vary a use of the shoreline.

98. Vegetation Conservation. Vegetation Conservation includes activities to protect, enhance or restore native vegetation along or near shorelines to minimize habitat loss, infestations of invasive plants, and erosion and flooding and therefore contribute to the ecological functions of shoreline areas.

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

100. View corridor. View corridor means an open-air space on a lot affording a clear view across the lot to the water from the abutting street.

101. Water-dependent Use. Water-dependent use means a use or portion of a use which requires direct contact with the water and which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of the operation. Ferry terminals, public fishing piers, and marinas are examples of water-dependent uses. Residential development is not a water-dependent use but is a preferred use of shorelines of the state.

102. Water-enjoyment Use. Water-enjoyment use means those uses which provide for recreation involving the water or facilitates public access to the shoreline as the primary characteristic of the use, or a use which provides for aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and, through location, design and operation assures the public’s ability to enjoy the physical and aesthetic qualities of the shoreline. To qualify as water enjoyment, a use must be open to the general public and the waterward side of the project must be devoted to provisions that accommodate public enjoyment, and the project must meet the Shoreline Master Program public access requirements. Some examples of water-enjoyment uses include viewing towers, parks, and educational/scientific reserves. A restaurant or similar use may qualify as a water-enjoyment use provided it includes public access to the shoreline.

103. Water-oriented Use. Water-oriented use means any water-dependent, water-related, or water-enjoyment use.

104. Water-related Use. Water-related use means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

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

105. Water Quality. Water quality means the physical chemical, aesthetic, and biological characteristics of water.

106. Watershed Restoration Project. Watershed restoration project means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

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

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

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

107. Watershed Restoration Plan. Watershed restoration plan means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

108. Weir. Weir means a structure in a stream or river for measuring or regulating stream flow.

109. Wetlands. Wetland means, for the purposes of this SMP, areas that are inundated or saturated by surface water 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.

9.1.2 Unlisted Words and Phrases

The definitions contained in this chapter shall be used when administering this Program. The definition of any word or phrase in this Program, but not listed in this chapter which is in question shall be defined from one of the following sources which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition from source number one, but if it is not available there, then source number two may be used and so on. The sources are as follows:

1. Town development regulations;
2. Any Town resolution, ordinance, code or regulations;
3. Any statute or regulation of the state of Washington (i.e., the most applicable);
4. Legal definitions from case law or a law dictionary; and
5. The common dictionary.