

# CITY OF SHELTON SHORELINE MASTER PROGRAM

May 2013





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# ACKNOWLEDGEMENTS

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<b>Shelton City Commissioners</b>	
Mayor Gary Cronce	
Commissioner Dawn Pannell	
Commissioner Mike Olsen	

<b>Citizen Advisory Committee</b>	
<b>Name</b>	<b>Affiliation</b>
Dave McEntee	Simpson Lumber
Kellen Manke	Manke Lumber
Brandon Palmer	Port of Shelton
Angela White	Olympia Master Builders
Tracey McGlothlin	Local Realtors Association
Katherine Price	Shelton Citizen
Tom Davis (Resigned on 6/1/12 due to other commitments)	Shelton Citizen

<b>Joint Technical Advisory Committee</b>	
<b>Name</b>	<b>Affiliation</b>
Lance Winecka	South Puget Sound Salmon Enhancement Group
Randy Lumper	Skokomish Tribe
Greg Reub	Aquatic Ecologist for Environ International
Duane Phinney	Fisheries Biologist
Scott Steltzner	Squaxin Island Tribe
Bob Simmons	WSU Extension
Shannon Soto	Department of Natural Resources (Now with State Department of Fish and Wildlife)
Richard Brocksmith	Hood Canal Coordinating Council
Cynthia Rossi	Point No Point Treaty Council Biologist

<b>Joint Technical Advisory Committee</b>	
<b>Name</b>	<b>Affiliation</b>
Doris Small	Washington Department of Fish and Wildlife

<b>Project Management Team</b>	
<b>Name</b>	<b>Affiliation</b>
Steve Goins	Director of Community and Economic Development, City of Shelton
Jason Dose	Senior Planner, City of Shelton
Tim Gates	Department of Ecology
Rick Mraz	Department of Ecology
Reema Shakra	ESA
Ikuno Masterson	ESA
Teresa Vanderburg	ESA

# PREFACE

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## Background

In 1971, the Washington State Legislature enacted the Shoreline Management Act (SMA), a comprehensive state-wide shoreline-management system. The Act's paramount objectives are to **protect and restore the valuable natural resources that shorelines represent and to plan for and foster all “reasonable and appropriate uses” that are dependent upon a waterfront location or that will offer opportunities for the public to enjoy the state's shorelines.** The SMA is expressed at the local level through the development of local shoreline master programs (SMP) and local shoreline permit programs.

Shelton's SMP was first adopted in 1975. Since that time, the City has witnessed increased development both inside and outside the City limits and, with that development, increased pressure on the City's salt- and freshwater shorelines.

The Shelton Planning Department and a local Shoreline Advisory Group (SLAG), appointed by the Mayor, initiated a two-phase shoreline planning effort in 1993, funded by a coastal zone management (CZM) grant from the Department of Ecology (Ecology). During the first-phase of the planning process, Planning Department staff, SLAG, and city residents, through a public participation process, developed draft shoreline goals and policies and draft shoreline environment designations for a new comprehensive plan and shoreline master program. This work formed the foundation of the 1994 SMP as described below.

## 1994 Shoreline Master Program

The shoreline planning process involved City Planning Staff, SLAG, local residents and MAKERS, a shoreline planning firm that was retained by the City for this project. City Planning Staff and SLAG led the technical analysis and the public participation with assistance from the consultant. The consultant assisted in the development of SMP goals, policies and regulations as directed, with regular review by Staff and SLAG. Town Meetings were held during key points in the process to encourage broad-based community participation.

The 1994 SMP was tailored to address the City's current and future shoreline management issues. Features of the 1994 SMP include: stronger policies and regulations for activities that apply to all shoreline development such as clearing, grading, stormwater disposal, public access, and environmentally sensitive areas.

New policies and regulations were also added for specific shoreline uses like boating facilities, industry, and commercial development.

The City of Shelton adopted and Department of Ecology approved the Shoreline Master Program in 1995.

## **2013 Shoreline Master Program**

In 2003, the Department of Ecology issued guidelines (WAC 173-26) for updating shoreline master programs in response to the listing of several salmon species as threatened or endangered of extinction under the federal Endangered Species Act and the state legislature provided funding in the form of grants to local governments to assist in the update process. The legislature established timeframes for all jurisdictions with shorelines of the state to complete their updates or in some cases to develop new SMPs.

In 2010, the City of Shelton initiated a comprehensive update of its 1994 SMP. The City's first step was to create a shoreline inventory and characterization report and map folio consistent with the state shoreline guidelines. The Inventory and Characterization report describes current shoreline conditions and provides a basis for updating the City's SMP goals, policies, and regulations. The report was prepared with the assistance of the Joint Technical Advisory Committee, a technical group representing state agencies, tribes, environmental organizations and trade organizations that were convened for both the Mason County and Shelton SMP updates.

The City also prepared a Shoreline Restoration Plan. The Restoration Plan identifies both programmatic and site specific opportunities for restoring shoreline ecological functions that have been impaired or altered because of past development activities.

The Shoreline Master Program has been revised to be consistent with the state shoreline guidelines. Major changes from the 1994 SMP include the following:

1. Establishing shoreline environment designations for areas not designated under the 1994 SMP (Goose Lake, shorelines in the City's urban growth area including portions of Goldsborough Creek, Johns Creek, Mill Creek, Oakland Bay and Island Lake).
2. Revising shoreline stabilization standards by requiring a geotechnical report that assesses a property's rate of erosion prior to allowing installation of new structural shoreline armoring. Hard structural armoring cannot be replaced or newly constructed unless non-structural or soft-structural armoring is demonstrated to be infeasible.

3. Requiring non-water oriented industrial and commercial developments to provide public access and ecological restoration.
4. Changing the public access requirement for subdivisions from a threshold of any number of parcels to subdivisions of more than four parcels; and for residential developments from a threshold of more than 2 units to residential developments of more than 4 units.
5. Establishing maximum impervious surface limits and maximum structure heights for each shoreline environment designation.
6. Allowing individual residential docks consistent with Washington Department of Fish and Wildlife materials, light passage, and dimensional standards.
7. Increasing the flexibility of non-conforming development standards.
8. Adopting the State mandated requirement to demonstrate no net loss of ecological functions.

The City convened a Citizens Advisory Committee (CAC), appointed by the City Commission that included major property owners, shoreline businesses, representatives from trade organizations and Shelton citizens to review draft shoreline environment designations and SMP regulations. The CAC met 16 times.

The City Commission reviewed the draft Master Program after CAC input and held a public hearing from April 1, 2013 to May 6, 2013. The City Council passed Ordinance Number 1830-0613 which adopted the Shoreline Master Program on June 3, 2013. Following their approval, the Master Program was forwarded to the Department of Ecology for their final review and comment.

# Chapter 1

## **INTRODUCTION**

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### **1.1 Title**

This document shall be known and may be cited as the City of Shelton Shoreline Master Program, Program or SMP.

### **1.2 Adoption Authority**

This Program is adopted under the authority granted by the Shoreline Management Act (RCW 90.58) and WAC 173-26 as amended.

### **1.3 Purpose and Intent**

The purpose of this Program is:

1. To guide the future development of shorelines in the City in a positive, effective, and equitable manner consistent with the Act;
2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the City's shorelines; and
3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state.

### **1.4 Governing Principles**

1. The goals, policies, and regulations of this Program are intended to be consistent with the state shoreline guidelines in WAC 173-26. The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.
2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
4. The policies and regulations established by this Program must be integrated and coordinated with those contained in the City of Shelton Comprehensive Plan and those adopted under the Growth Management Act (RCW 36.70A) and Significant Legislative Rules (RCW 34.05.328).

## 1.5 Liberal Construction

As provided for in RCW 90.58.900, the Act is exempt 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

If any provision of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, is declared unconstitutional or is held invalid for any reason, such decision shall not affect the validity of the remainder of the Master Program, or the application of the provision to other persons or legal entities or parcels of land or circumstances.

## 1.7 Relationship to Other Plans and Regulations

1. Proponents of shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.
2. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation the most recent amendment or current edition shall apply.
3. Uses, developments and activities regulated by this Program may also be subject to the provisions of the City of Shelton Comprehensive Plan, RCW 43.21C (State Environmental Policy Act) and WAC 197-11 (SEPA Rules), other provisions of the City Code, including Shelton Municipal Code (SMC) Title 20 (Zoning) and various other provisions of local, state and federal law, as amended.
4. In the event this Program conflicts with other applicable City policies or regulations, they must be interpreted and construed so that all the

language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated, the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.

5. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews are considered vested. Major changes or new phases of projects that were not included in the originally approved plan or permit will be subject to the policies and regulations of this Program.

## **1.8 Effective Date**

This Program and all amendments thereto shall take effect fourteen (14) days from the date of Ecology's written notice of final action to the City, or after the decision of the Growth Management Hearings Board should Ecology's decision be appealed, and shall apply to new applications submitted on or after that date, and to applications that have not been determined to be fully complete by that date.

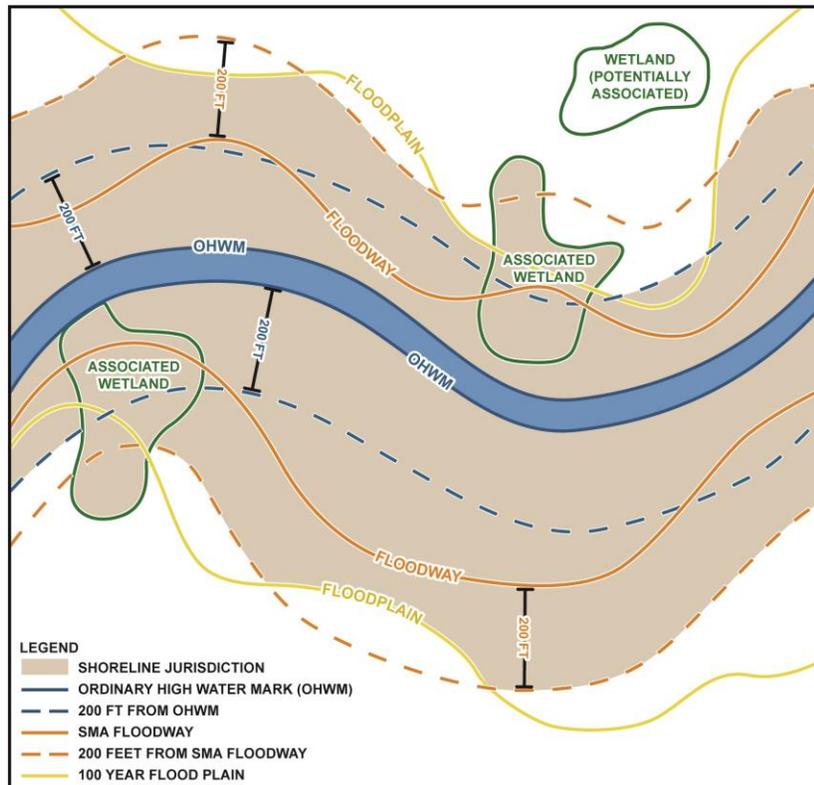
# CHAPTER 2 APPLICABILITY, SHORELINE PERMITS, AND EXEMPTIONS

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## 2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the Shelton city limits that fall under the jurisdiction of RCW 90.58 (see Figure 2-1 for illustrative purposes). Such shorelands shall include:
  - a. Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM),
  - b. Floodways and contiguous floodplain areas landward, two hundred (200) feet from such floodways, and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

**Figure 2-1. Graphic Depiction of the SMA Shoreline Jurisdiction Limits**



2. The City has predesignated shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas shall be regulated by the Mason County Shoreline Master Program. Once annexed, those properties shall be regulated by the City of Shelton Shoreline Master Program.
3. A copy of the Official Shoreline Environment Designation Map for the City and its UGA is shown in Chapter 4. Maps indicating the extent of shoreline jurisdiction and shoreline environment designations are for guidance only. They are to be used in conjunction with best available science, field investigations and onsite surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed.
4. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.
5. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally-owned lands (including but not limited to, private in-holdings in national wildlife refuges).
6. Nonfederal agency actions undertaken on federal lands must comply with this Program and the Act.
7. Native American Tribe actions on tribal lands and federal agency actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party.
8. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
9. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.
10. The shoreline jurisdiction within the city limits of Shelton and its Urban Growth Area includes the following shoreline areas:
  - a. Oakland Bay
  - b. Johns Creek
  - c. Island Lake
  - d. Goose Lake

- e. Goldsborough Creek
  - f. Mill Creek
11. The portion of Puget Sound in Shelton waterward from the line of extreme low tide is considered a “shoreline of statewide significance” per RCW 90.58.030(2)(f).

## **2.2 Shoreline Substantial Development Permit**

1. Any person wishing to undertake substantial development on shorelines shall apply to the Administrator for a shoreline substantial development permit.
2. A substantial development permit is required for any development with a total cost or fair market value exceeding six thousand, four hundred, sixteen dollars (\$6,416) (or the value as amended or adjusted for inflation per RCW 90.58.030 [3] [e]) or any development which materially interferes with the normal public use of the water or shorelines of the state, except those exempted developments set forth in WAC 173-27-040 (Developments Exempt from Substantial Development Permit Requirements) (also see Section 2.3.2).
3. The Shoreline 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 WAC 173-27, and this Program.
4. The Shoreline Administrator may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and the Master Program.

## **2.3 Exemptions from a Shoreline Substantial Development Permit**

### **2.3.1 General Requirements**

1. Except when specifically exempted by statute, all proposed uses and development occurring within the shoreline jurisdiction must conform to RCW 90.58 (Shoreline Management Act) and this Program.
2. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit even if the development or use does not require a substantial development permit.

3. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
4. Before determining that a proposal is exempt, the Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.
5. If any part of a proposed development is not eligible for an exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and this section, then a substantial development permit is required for the entire proposed development project.
6. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
7. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

## 2.3.2 List of Exemptions

1. The following list should be considered a summary of exempt activities. Exemptions and details can be found in RCW 90.58.030 (3)(e), 90.58.147, 90.58.355, 90.58.515, and WAC 173-27-040, as amended. Exempt 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 2.3.3.
  - a. Any development of which the total cost or fair market value, whichever is higher, does not exceed six thousand, four hundred, sixteen dollars (\$6,416) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. 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.
  - b. 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.

- c. 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 Department of Fish and Wildlife.
- d. 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 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 the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master 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.

- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.
- f. Construction or modification of navigational aids such as channel markers and anchor buoys.
- g. 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 (35) feet above average grade level and which meets all requirements of the 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. 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 and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

- h. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
  - i. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars (\$2,500); or
  - ii. In fresh waters the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Puget Sound and all bays and inlets associated.

- i. 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 groundwater from the irrigation of lands.
- j. 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.
- k. 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.
- l. Any project with a certification from the governor pursuant to chapter 80.50 RCW.
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
  - i. The activity does not interfere with the normal public use of the surface waters;

- ii. 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;
  - iii. 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;
  - iv. 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 preexisting conditions; and
  - v. The activity is not subject to the permit requirements of RCW 90.58.550.
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of a 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 RCW 43.21C.
- o. Watershed restoration projects as defined below. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) 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.
- i. "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:
    - (1) A project that involves less than ten (10) miles of stream-reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
    - (2) 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

- (3) 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 (200) square feet in floor area and is located above the ordinary high water mark of the stream.
- ii. "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.
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
- i. The project has been approved in writing by the Department of Fish and Wildlife;
- ii. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and
- iii. The City of Shelton has determined that the project is substantially consistent with this shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project proponent.
- (1) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this shoreline master program, as follows:
- (a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (p)(iii)(1)(a)(i) and (ii) of this subsection:
- (i) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

1. Elimination of human-made fish passage barriers, including culvert repair and replacement;
2. Restoration of an eroded or unstable streambank employing the principle 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
3. Placement of woody debris or other in-stream structures that benefit naturally reproducing fish stocks.

The Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the Department of Ecology determines that the scale of the project raises concerns regarding public health and safety; and

- (ii) A fish habitat enhancement project must be approved in one of the following ways:
1. By the Department of Fish and Wildlife pursuant to RCW chapter 77.95 or 77.100;
  2. By the sponsor of a watershed restoration plan as provided in RCW chapter 89.08;
  3. By the Department of Ecology as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;
  4. Through the review and approval process for the jobs for the environment program;
  5. Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;

6. Through a formal grant program established by the legislature or the Department of Fish and Wildlife for fish habitat enhancement or restoration; and
  7. Through other formal review and approval processes established by the legislature.
- (b) Fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).
- (c)
- (i) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(1)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the Department of Fish and Wildlife and to each appropriate local government. The City of Shelton shall accept the application as notice of the proposed project. The Department of Fish and Wildlife shall provide a fifteen-day (15) comment period during which it will receive comments regarding environmental impacts. Within forty-five (45) days, the Department of Ecology shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The Department of Ecology shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Department of Ecology determines that the review and approval process created by this section is not appropriate for the proposed project, the Department of Ecology shall notify the applicant and the City of Shelton of its determination. The applicant may reapply for approval of the project under other review and approval processes.

- (ii) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of WAC chapter 173-27.
- (d) The City of Shelton may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(1)(A) of this subsection and that are reviewed and approved according to the provisions of this section.
- q. The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to Department of Ecology when it conducts a remedial action under RCW 70.105D. The Department of Ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to RCW 70.105D, or during the Department of Ecology-conducted remedial action, through the procedures developed by the Department of Ecology pursuant to RCW 70.105D.090.

### 2.3.3 Statements of Exemption

1. Any person claiming exemption from the substantial development permit requirements **shall be required** to make written request for such an exemption in the manner prescribed by the Shoreline Administrator.
2. The Shoreline Administrator is authorized to grant requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 2.3.2. The “statement of exemption” shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development. It shall also provide the Shoreline Administrator’s analysis of the consistency of the project with this Program and the Act. The statement of exemption may contain conditions and/or mitigating measures for approval to achieve consistency and compliance with the provisions of this Program and Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.
3. A copy of written exemptions shall be forwarded to the Department of Ecology if federal permits are also required for the project (e.g., wetland fills, dredging and overwater/in-water structures would all require federal permits).

4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. In accordance with Chapter 7, the Shoreline Administrator's decision on a statement of exemption may be reconsidered or appealed.

## 2.4 Nonconforming Uses and Development

1. "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Shoreline Master Program, but which does not conform to present regulations or standards of the Program.
2. Existing uses, structures and lots, legally established prior to the effective date of this Program are allowed to continue in their current form.
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 pre-existing nonconformities.
4. A use which is classified as a conditional use but which existed prior to adoption of this Program or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use.

### 2.4.1 Nonconforming Uses

1. If a nonconforming use is discontinued for twenty-four (24) consecutive months or for twenty-four (24) months during any three (3)-year period, any subsequent proposed use shall conform to the provisions of this Program. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire.
2. A structure which is being used or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only on the finding that:
  - a. No reasonable alternative conforming use is practical; and
  - b. The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.
3. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements

of the Master Program and the Shoreline Management Act, and to assure that the use will not become a nuisance or a hazard.

## 2.4.2 Nonconforming Structures

1. A structure or development that is nonconforming to the standards of SMC 21.64 may be altered or renovated consistent with the requirements established in SMC 21.64.088. A structure or development that is nonconforming to the standards of the Shoreline Master Program shall comply with the following:
  - a. A nonconforming structure or development may be continued and maintained provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity, except for circumstances identified under SMC 21.64.
  - b. A nonconforming structure or development may be moved in a manner which does not increase its nonconformity relative to the Master Program and the Act.
  - c. If a nonconforming, nonresidential structure or development is damaged by fire or other catastrophic event to an extent not exceeding 75 percent replacement cost of the original structure, it may be reconstructed to the configuration existing immediately prior to the time the structure was damaged, provided that permits necessary to restore the development are applied for within one (1) year of the date the damage occurred, and the reconstruction is completed within two(2) years of permit issuance.
  - d. If a nonconforming residential structure or development is damaged by fire or other catastrophic event, it may be reconstructed to that configuration existing immediately prior to the time the structure was damaged, provided that permits necessary to restore the development are applied for within one (1) year of the date the damage occurred, and the reconstruction is completed within two (2) years of permit issuance.
2. Legally established residential structures and associated appurtenances that are landward of the ordinary high water mark and are used for a conforming use shall be considered legal conforming structures even if they do not meet regulatory standards for setbacks, buffers, or yards; area; bulk; height; or density.
  - a. Expansion of such structures located over water or in hazardous areas, such as floodways, is prohibited.

- b. Expansion to the main structure or the addition of a normal appurtenance shall only be accomplished by addition of space above the existing building footprint or behind the side of the main structure which is farthest away from the ordinary high water mark and in a manner consistent with SMC 21.64.

For purposes of Section 2.4.2, regulation #2, appurtenant structures means garages, sheds and other legally established structures as defined in Chapter 8. Appurtenant structures do not include bulkheads and other shoreline modifications or overwater structures such as piers and docks.

### 2.4.3 Nonconforming Lots

1. An undeveloped lot, tract, parcel, site, or land division located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Act and the Master Program but which does not conform to the present lot size or density standards may be developed if permitted by other land use regulations and as long as such development conforms to all other requirements of the Master Program and the Act.

## 2.5 Shoreline Variance

1. The Shoreline Management Act states that Master Programs shall contain provisions allowing for variances from the standards and provisions of the Program. These provisions should be applied in a manner that, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.
2. The purpose of a variance permit is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the physical character or configuration of property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020.
3. When a shoreline variance is requested, the Hearings Examiner shall be the approval authority for the City. However, shoreline variance permits must have approval from the Department of Ecology, which shall have final approval authority under WAC 173-27-200.
4. An application for a shoreline variance shall be submitted on a form provided by the City and accompanied by maps, completed environmental

- checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.
5. Variance permits for development that will be located landward of the ordinary high water mark and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property;
    - b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;
    - c. That the design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;
    - d. That approval of 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.
  6. Variance permits for development and/or uses that will be located either waterward of the ordinary high water mark or within any wetland, may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes all reasonable use of the property;
    - b. That the proposal is consistent with the criteria established under subsection (5)(b) through (f); and
    - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
  7. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances

should also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

8. The burden of proving that a proposed shoreline variance meets the criteria of this Master Program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
9. A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this Master Program, and vice versa.
10. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline environment designation.
11. Variance review shall require a public hearing before the City of Shelton Hearings Examiner.
12. 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.
13. After the City's approval of a variance application, the Administrator shall submit the permit to the Department of Ecology for its approval, approval with conditions, or denial. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons having requested notification of such decision.

## **2.6 Shoreline Conditional Use Permit**

1. The Shoreline Management Act states that Master Programs shall contain provisions for allowing certain uses with specific limitations under a conditional use permit. These provisions should be applied in a manner that, while protecting the environment, will assure that a person will be able to use his/her property.
2. The purpose of a conditional use permit is to provide a system within the Master Program which allows flexibility in the application of the use regulations of this Program in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use permit, special conditions may be attached to the permit by the City or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and the Master Program.
3. When a conditional use permit is requested, the Hearings Examiner shall be the approval authority for the City. However, shoreline conditional use

permits must have approval from the Department of Ecology, which shall have final approval authority under WAC 173-27-200.

4. An application for a shoreline conditional use permit shall be submitted on a form provided by the City, accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.
5. Uses classified as conditional uses may be authorized provided that the applicant demonstrates all of the following:
  - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project are compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and the Master Program;
  - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - e. That the public interest suffers no substantial detrimental effect.
6. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
7. Conditional use permits shall require a public hearing before the City of Shelton Hearings Examiner.
8. Uses which are specifically prohibited by this Master Program may not be authorized through a conditional use permit process unless part of a request pursuant to Section 2.4 (Nonconforming Uses and Structures).
9. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
10. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

11. Uses which are not specifically identified or set forth in this Master Program are considered unclassified and may be authorized through a conditional use permit provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the City of Shelton Shoreline Master Program.
12. After the City's approval of a conditional use application, the Administrator shall submit the permit to the Department of Ecology for its approval, approval with conditions, or denial. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons having requested notification of such decision.

## 2.7 Permit Application

1. The Administrator shall provide the necessary application forms for shoreline substantial development permits, letter of exemptions, conditional use and variance permits. The applicant shall provide, at a minimum, the following information as applicable to the proposal:
  - a. Site plan drawn to scale and including:
    - i. Site boundary
    - ii. Property dimensions
    - iii. Location of ordinary high water mark
    - iv. Location(s) of critical areas and associated buffer as designated in SMC 21.64
    - v. General direction of surface drainage
    - vi. Typical cross section or sections showing:
      - (1) existing ground elevation
      - (2) proposed ground elevation
      - (3) height of existing structures
      - (4) height of proposed structures
    - vii. Where appropriate, proposed land contours using 5-foot intervals in water area and 10-foot intervals on areas landward of ordinary high water mark; areas of proposed grading, cut, or fill should be shown with existing and proposed contours;
    - viii. Existing site conditions, including: dimensions and location of existing structures (including setbacks from all property lines and critical areas), dimensions and location of parking areas (including

- setbacks from all property lines and critical areas), existing locations and types of landscaping/vegetation (indicate whether vegetation is proposed to be retained or removed), and location of any existing easements;
- ix. Proposed site conditions, including: dimensions and locations of proposed structures (including setbacks from all property lines, critical areas and existing structures), dimensions and locations of parking areas (including setback from all property lines and critical areas), proposed areas of landscaping/vegetation, location of proposed graveled areas or other areas of proposed property coverage;
  - x. Location of proposed utilities (sewer, septic-system tank and drainfield, water, gas, electricity, stormwater management facilities, etc.).
- b. General description of the character of vegetation found on site.
  - c. General description of the existing ecological functions and processes affecting, maintaining, or influencing the shoreline at/near the project site along with a summary characterization of the effects of the proposed project on existing ecological functions and processes in the vicinity of the project and a description of how the proposal complies with the mitigation sequence in section 5.4 of this Master Program. If the project is likely to have adverse effects on shoreline ecological functions or processes, a mitigation plan shall be provided demonstrating measures that will be taken to offset impacts. Depending on the proposed development and existing site conditions, this information may be required to be prepared by a qualified professional pursuant to Chapter 21.64 (Critical Areas) of the Shelton Municipal Code.
  - d. Source, composition, and volume of fill material (if any).
  - e. Composition and volume of any extracted materials and proposed disposal area (if any).
  - f. Shoreline environment designation according to the Master Program.
2. Complete application and supporting documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application shall be corrected by the applicant prior to further processing. The date of application for all permits shall be the date on which the Administrator receives a **complete** permit application.



# **CHAPTER 3**

## **SHORELINE MASTER PROGRAM GOALS AND POLICIES**

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This chapter describes overall Program goals and policies. The general regulations in Chapter 5 and the specific use and modification regulations in Chapter 6 are the means by which these goals and policies are implemented.

### **3.1 General Shoreline Goals**

- SMP1.1. Adequately protect and preserve shoreline areas from incompatible types and intensities of development. Reserve shoreline areas for water-related uses.**
- SMP1.2. Increase public access to shoreline areas by increasing the opportunities for the public to reach, touch and enjoy the water's edge, travel on the waters of the state and view the water and shoreline from adjacent locations.**
- SMP1.3. Future use and development of the City's shoreline should result in no net loss of shoreline ecological functions.**

## 3.2 Shorelines of Statewide Significance

**SMP2.1. Designated shorelines of statewide significance (SSWS) are of value to the entire state as are other water bodies meeting the definition of shorelines of the state. Shelton Harbor, waterward of the extreme low tide, is designated as a shoreline of statewide significance. In accordance with RCW 90.58.020, SSWS will be managed as follows:**

1. Preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that, in the following order of preference:
  - a. Recognize and protect the statewide interest over local interest;
  - b. Preserve the natural character of the shoreline;
  - c. Result in long-term over short-term benefit;
  - d. Protect the resources and ecological function of the shoreline;
  - e. Increase public access to publicly-owned areas of the shorelines;
  - f. Increase recreational opportunities for the public in the shoreline; and
  - g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.
2. Uses that are not consistent with these policies should not be permitted on SSWS.

## 3.3 Archaeological, Historic, and Cultural Resources Goals and Policies

**SMP3.1. Identify, protect, preserve and restore important historical, cultural, scientific and educational sites on the shorelines of the City for the benefit of the public. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Mason County Historic Preservation Commission, City of Shelton Historic Preservation Board, and other appropriate authorities.**

- SMP3.1a. Due to the limited and irreplaceable nature of archeological and historical resources, public or private uses and activities should be prevented from destroying or altering any site having historic, prehistoric, cultural, scientific or educational purpose or value as identified by the federal, state, local, or tribal agencies except for scientific study of the site.
  - SMP3.1b. Areas containing potentially valuable historical/cultural features should be identified and procedures for protecting and preserving them should be employed.
  - SMP3.1c. Projects and programs that foster a greater appreciation of shoreline management, local history, timber milling activities, environmental conservation and logging history should be encouraged.
  - SMP3.1d. New sites that are discovered during ground disturbing activities should be secured from further intrusion until interested/affected tribes and DAHP are consulted and protected until they can be examined by the appropriate authorities.
  - SMP3.1e. Measures should be taken to ensure that public access to such sites does not reduce their historical or cultural attraction or degrade the quality of the environment.
  - SMP3.1f. Sites identified as having significant historic or cultural importance that have experienced degradation should be restored if possible.
  - SMP3.1g. Development of shoreline areas that contain potentially valuable historical/cultural features should be in compliance with the City's Historical Preservation Ordinance.
- SMP3.2. Sites which are deemed to have significant historic or cultural value should be acquired by the City through gift, purchase, or lease whenever possible to ensure the protection and preservation of the resource.**
- SMP3.2a. The City should seek state and federal grants to help fund the purchase of historic or cultural sites.

### 3.4 Conservation Goals and Policies

- SMP4.1. **Protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.**

- SMP4.1a. Shorelines that support high-value habitat or high-quality associated wetlands should be considered for the highest level of protection to remain in an unaltered condition.
- SMP4.1b. Management practices should be developed that ensure preservation, protection and restoration of the scenic and nonrenewable natural resources, including unique and ecologically sensitive features, wildlife habitat and wetlands located in shoreline areas. Conservation of renewable natural resources should be practiced for the benefit of existing and future generations.
- SMP4.1c. Impacts to shoreline ecological functions should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of watershed processes and shoreline functions.
- SMP4.1d. Regulatory, nonregulatory, and incentive programs should all be used for the protection and conservation of wildlife habitat areas, and should emphasize policies and standards to protect and conserve wildlife habitat areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.
- SMP4.1e. The retention of existing native vegetation along shorelines should be encouraged, and where removal is unavoidable for physical or visual access to the shoreline, alteration should be limited in such a manner that habitat connectivity is maintained, degraded areas are restored, and the health of remaining vegetation is not compromised.

### 3.5 Economic Development Goals and Policies

- SMP5.1. Provide for controlled economic development of shoreline areas while acknowledging the critical importance of a balanced and diversified economy. Development along shorelines should be located and designed to ensure compatibility among uses for the purpose of achieving lasting beneficial economic effects.**
  - SMP5.1a. Continue to support current economic activity that is consistent with the policies of this SMP.
  - SMP5.1b. Encourage healthy, orderly economic growth by allowing economic activities that will be an asset to the community

- while maintaining the highest standards to prevent ecological loss or damage.
- SMP5.1c. Encourage new economic uses that create family wage jobs and employment.
  - SMP5.1d. Support the long-term economic contribution of timber milling and related industrial lands and transportation systems, and ensure that milling activities continue to function effectively in Oakland Bay.
  - SMP5.1e. Support efforts to improve water quality in Oakland Bay so as to ensure future opportunities for the aquaculture industry.
  - SMP5.1f. Encourage new water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or water quality.
  - SMP5.1g. As an economic asset, encourage the recreation industry along shorelines in a manner that will enhance the public enjoyment of shorelines, consistent with protection of critical areas and cultural resources.
  - SMP5.1h. Encourage existing nonwater-oriented commercial, industrial, and resource-based activities located in the shoreline jurisdiction to redevelop in a manner that ensures protection of watershed processes and shoreline functions.
  - SMP5.1i. Support the Port of Shelton's planning and efforts to provide a mix of commercial uses at the Oakland Bay Marina through consideration and support of planning documents such as the Port of Shelton Comprehensive Plan and the Port of Shelton Marina Patrons Guide."

## 3.6 Flood Hazard Reduction Goals and Policies

### **SMP6.1 Coordinate flood risk reduction strategies and projects on a river-reach scale supporting long-term flood reduction outcomes.**

- SMP6.1a. Floodplain management planning should be a coordinated effort involving tribes, nongovernment organizations, affected property owners and public agencies.
- SMP6.1b. Floodplain management planning should consider the entire watershed or sizable stretches of shoreline.

SMP6.1c. Floodplain management planning should consider implications of sea-level rise and other climate change impacts.

**SMP6.2 Protect flood storage, conveyance, and ecological values of floodplains, wetlands, and riparian corridors and, when feasible, enhance or restore these ecological functions and values.**

SMP6.2a. Floodplain management planning should consider the off-site environmental impacts (erosion, accretion, flooding, etc.) of flood protection measures.

SMP6.2b. Flood control works should be located, designed, constructed and managed to protect:

- Public health, safety and welfare;
- The physical integrity of the shoreline corridor and other properties which may be damaged by changes in channel characteristics;
- The process of channel migration;
- Associated wetlands;
- Water quality and natural groundwater movement;
- Fish and wildlife species and habitats; and
- Recreation resources and aesthetic values such as point and channel bars, islands, other shore features and scenery.

SMP6.2c. The provisions for shorelines of statewide significance should be considered in the review of all floodplain management measures along shorelines of statewide significance.

**SMP6.3 Prevent public and private losses from occurring due to flooding, and where this proves to be impossible, minimize them to the extent possible, and maintain and restore natural flow regimes.**

SMP6.3a. Nonstructural methods are preferred over structural flood control works. Nonstructural methods include: limiting development in floodplains, removing or relocating structures in floodplains, limiting increases in peak stormwater runoff from new upland development, establishing stream buffers, public education, and land acquisition for additional flood storage. Structural flood

control works include modifications such as dikes, levees, revetments and floodwalls.

- SMP6.3b. Structural flood control works should be allowed only after it is demonstrated that nonstructural solutions would not be adequate to reduce damage to primary structures.
- SMP6.3c. Substantial stream channel modification, realignment and straightening should be discouraged as a means of flood protection.
- SMP6.3d. Flood protection measures should be accomplished in a manner that ensures no net loss of ecological functions and ecosystem-wide processes.
- SMP6.3e. New development or uses along Goldsborough, Johns, and Mill Creek shorelines, including land subdivisions, should not be allowed when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

**SMP6.4. Establish public access opportunities as part of publicly financed flood control projects.**

- SMP6.4a. In design of publicly financed or subsidized flood control works, consideration should be given to providing public pedestrian access to the shoreline for low-intensity outdoor recreation.

### **3.7 Public Access Goals and Policies**

**SMP7.1. Provide safe, convenient, diversified and properly administered access for the public along the shorelines and to the water bodies of the City of Shelton.**

- SMP7.1a. On-site, physical public access should be encouraged as part of each development project by a public entity, and for all private development (except residential development of 4 parcels/dwelling units or less), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where deemed inappropriate for reasons listed above, visual access, off-site physical access, or residential community access should be considered.

- SMP7.1b. Public access should provide for multimodal transportation and access. (For example, pedestrian and bicycle trails, roads, docks, ramps, etc.)
  - SMP7.1c. Public access in downtown Shelton should be located and designed in a manner that is consistent with Comprehensive Plan goals and policies to increase pedestrian activity and walkability from the downtown to shoreline areas.
  - SMP7.1d. Public access should be located, designed and operated to ensure public safety.
  - SMP7.1e. Smaller residential developments should only be required to provide community access to the shoreline that serves the development's property owners, residents, and guests.
  - SMP7.1f. Shelton should plan for an integrated shoreline area public access system that identifies public needs and opportunities to provide public access to Oakland Bay, Island Lake, Goose Lake and Goldsborough Creek.
  - SMP7.1g. Public access provided by shoreline street-ends should be preserved, maintained, and enhanced. Enhancement of existing street-ends could include directional and informational signage, plantings, and/or benches.
  - SMP7.1h. Support the Port of Shelton's efforts to enhance the Oakland Bay Marina through consideration and support of planning documents such as the Port of Shelton Comprehensive Plan and the Port of Shelton Marina Patrons Guide.
- SMP7.2. The City should pursue the acquisition of additional public access to shoreline areas through gift, purchase, lease, or other methods that would result in a benefit to the City and its residents.**
- SMP7.2a. The City should seek state and federal grants to help fund the purchase of shoreline properties for public access.
- SMP7.3. Ensure that private property rights are preserved when planning and constructing public access.**
- SMP7.3a. Public access should not infringe upon the private property rights of adjacent lands, and buffers should be encouraged to increase the compatibility between uses.

## 3.8 Recreational Development Goals and Policies

- SMP8.1. Encourage adequate and diverse shoreline/water-dependent and water-oriented recreational opportunities which provide a quality experience and are compatible with and do not degrade the character or environmental quality of the shoreline area.**
- SMP8.1a. Nonwater-oriented recreational facilities may be required to locate outside of shoreline jurisdiction.
  - SMP8.1b. The City should pursue the acquisition of property for the purpose of establishing public recreational areas.
  - SMP8.1c. As new recreational areas and facilities are developed along the shoreline, there should be a balance between recreational activities occurring in the shoreline areas and upland areas.
  - SMP8.1d. Private investment in recreational facilities should be encouraged.
  - SMP8.1e. Linear linkages between shoreline and upland recreational facilities should be encouraged through the creation of multimodal transportation facilities, including pedestrian trails and bicycle paths.
  - SMP8.1f. The coordination of local, state and federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans.
  - SMP8.1g. The location and design of shoreline recreational developments should relate to local population characteristics, density and special activity demands. Acquisition priorities should consider these demands and special opportunities as well as public transit access and access for the physically impaired, where planned or available.
  - SMP8.1h. Recreational developments should be located, designed and operated to be compatible with and minimize adverse impacts on environmental quality and valuable natural features as well as on adjacent and surrounding land and water uses.

### 3.9 Critical Areas Goals and Policies

- SMP9.1. Manage designated critical areas (i.e., wetlands, geologically hazardous areas, fish and wildlife habitat conservation areas,**

**frequently flooded areas and critical aquifer recharge areas) that are located within the City's shoreline jurisdiction to protect existing ecological functions and ecosystem-wide processes and, where possible, restore degraded ecological functions and ecosystem-wide processes to ensure no net loss of ecological functions.**

- SMP9.1a. The diversity of aquatic life, wildlife and endangered species (plant and animal) and their shoreline habitats should be protected and enhanced.
- SMP9.1b. Adverse effects on shoreline ecosystems from existing and future uses should be mitigated through facility design and regulation of permitted activities.
- SMP9.1c. Development should be regulated in a way that protects the public from damages due to flooding, landslides, subsidence, and erosion and prevents adverse impacts to ground and surface water quality, wetlands, tidelands, streams, stream corridors, and fish and wildlife habitat.
- SMP9.1d. Development should be discouraged on shorelines that are identified as hazardous for or sensitive to development.
- SMP9.1e. Wetland ecosystems should be preserved and protected to achieve no net loss of wetland area and wetland ecological functions.
- SMP9.1f. Wetlands should be used as an educational resource for activities that increase the public's awareness of their importance, function and natural processes. Recreational and educational activities should be encouraged so long as they do not degrade the resource.
- SMP9.1g. The City should guide its open space planning efforts toward establishing a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces. These should include where possible riparian and estuarine ecosystems.
- SMP9.1h. Development in the floodplain of any stream that would individually or cumulatively result in an increased risk of flood damage should be discouraged.
- SMP9.1i. Critical aquifer recharge areas in the shoreline should be managed with development standards that limit the type of use and activities where infiltration of runoff may affect groundwater recharge or contaminate aquifers.

**SMP9.2. Protect existing nearshore habitats and restore degraded nearshore habitats. These nearshore habitats require a higher level of protection due to the important ecological functions they provide. As ecological functions of marine shorelands can affect the viability of critical saltwater habitats, effective protection and restoration of critical saltwater habitats should integrate management of shorelands and submerged areas.**

- SMP9.2a. Protect critical saltwater habitats that support valuable recreational and commercial fisheries and shellfish because of their importance to the aquatic ecosystem and the state and local economy.
- SMP9.2b. Avoid or discourage the placement of docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures that intrude into or over identified nearshore habitat having a primary association with federal-listed and state-listed endangered, threatened, priority species, and critical saltwater habitat. Construction of improvements which provide improved public access and use in areas where the natural shoreline has been altered and ecological functions degraded should be considered on a case-by-case basis.

## 3.10 Restoration Goals and Policies

**SMP10.1. Encourage development of soft-shore stabilization measures.**

- SMP10.1a. The City should consider shoreline restoration as an alternative to structural shoreline stabilization and protection measures where:
- The length and configuration of the shoreline will accommodate such systems;
  - Such an approach can be accommodated at the specific site;
  - Shoreline restoration will accomplish one or more of the following objectives:
    - Recreate or enhance natural shoreline ecological functions;
    - Create or enhance natural habitat;

- Prevent erosion that is not integral to natural shoreline ecological processes; or
- Enhance access to publicly-owned shorelines.

**SMP10.2. Restoration projects should be designed in a manner that complements adjacent natural resources, incorporates maintenance-free designs, minimizes in-water work, considers sea-level rise, and includes adaptive management techniques.**

- SMP10.2a. All shoreline restoration projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
- SMP10.2b. Where possible, shoreline restoration should use maintenance-free or low-maintenance designs including native, drought-tolerant plants.
- SMP10.2c. Shoreline restoration should not extend waterward more than necessary to achieve the intended results.
- SMP10.2d. Habitat protection and restoration projects should consider implications of sea-level rise and other climate change impacts to promote resiliency of habitats and species.
- SMP10.2e. Restoration projects should have adaptive management techniques including adjusting the project design, correcting the problems (barriers to success), and implementing contingency measures.

**SMP10.3. Encourage cooperative restoration actions involving local, state, and federal public agencies, tribes, nongovernment organizations, and private landowners.**

- SMP10.3a. The City should identify specific restoration opportunities where it can take the lead with support from other regional entities.
- SMP10.3b. The City should work with major landowners and state agencies to address contamination in sediment, soil, and groundwater at Goose Lake.
- SMP10.3c. The City should work with the major landowners in Shelton Harbor to identify opportunities for riparian and aquatic restoration.
- SMP10.3d. The City should work with the Squaxin Island Tribe to identify specific restoration opportunities for Goldsborough Creek, Oakland Bay and Johns Creek.

**SMP10.4. Integrate restoration efforts with capital improvement projects.**

- SMP10.4a. Incorporate habitat enhancement elements into the design and implementation of public infrastructure improvement projects.
- SMP10.4b. Prioritize enhancement and restoration efforts at public parks and publicly-owned open space lands.

**SMP10.5. Encourage voluntary restoration as part of development proposals.**

- SMP10.5a. Employ incentives and encourage actions in shorelines and critical areas that restore the ecological functions and ecosystem-wide processes of the City's shorelines.
- SMP10.5b. Encourage removal of invasive vegetation and planting of native vegetation on private property.
- SMP10.5c. Use the Restoration Plan framework to integrate compensatory mitigation projects into the broader restoration vision for the City.

**SMP10.6. Educate the Shelton community on restoring shoreline habitat.**

- SMP10.6a. Establish public education materials to provide shoreline landowners technical assistance about the benefits of native vegetation plantings.
- SMP10.6b. Identify areas where kiosks and interpretive signs can enhance the educational experience of users to the shoreline.

**SMP10.7. Enhance or restore flood storage, conveyance, and ecological values of floodplains, wetlands, and riparian corridors, when feasible. Flood risk reduction strategies and projects should be coordinated on a river-reach scale with salmon habitat recovery plans.**

- SMP10.7a. Encourage voluntary replacement of levees and revetments with alternative shoreline stabilization materials, where feasible.
- SMP10.7b. Restore, enhance, and protect native riparian forest communities along the Goldsborough, Johns, and Mill Creek systems.

**SMP10.8. Prioritize watershed restoration and protection actions that would improve ecological functions and processes of City shorelines.**

- SMP10.8a. Protect and enhance the large wetland complex extending from Island Lake southwest to Goose Lake.

- SMP10.8b. Protect and/or enhance in-stream habitats used by priority salmonid species such as Chinook salmon, coho, and coastal cutthroat trout.
- SMP10.8c. Protect intact riparian areas and restore degraded riparian areas to retain and/or improve ecological function of both freshwater and marine shorelines.
- SMP 10.8d. Approach ecological restoration and enhancement on a watershed basis and seek to promote an ecosystem or landscape approach, including integrating projects into their surrounding environments and promoting greenbelts for movement and use by wildlife species.
- SMP 10.8e. Encourage restoration projects that achieve the objectives within the Shoreline Restoration Plan.
- SMP 10.8f. Design restoration projects such that there are no adverse impacts on ecological resources or functions within the same watershed or sub-drainage.

**SMP 10.9. Prevent pollution from urban stormwater runoff for new development and retrofit existing developed areas to improve water quality and mimic the natural water regime.**

- SMP10.9a. Identify and map existing stormwater systems that direct runoff to the City's shorelines.
- SMP10.9b. Identify and prioritize actions to address stormwater impacts negatively affecting City shorelines.
- SMP10.9c. Implement stormwater retrofits; make improvements to operations/maintenance of existing stormwater infrastructure; and construct additional source control measures.
- SMP10.9d. Encourage low impact development to preserve the functions of natural soils and vegetation, reduce peak stormwater runoff, and improve water quality.

### **3.11 Shoreline Modification and Stabilization Goals and Policies**

**SMP 11.1 Developments should avoid or minimize the use of shoreline modifications to the maximum extent feasible. When shoreline modification is unavoidable, the methods used should be those that are least destructive to the shoreline environment.**

- SMP11.1a. When necessary, natural, nonstructural shoreline stabilization measures such as protective berms, beach enhancement or vegetative stabilization are strongly preferred over structural stabilization measures such as steel, wood, or concrete, because the former have less adverse and cumulative impacts on shore features and habitats.
- SMP11.1b. Owners of property containing feeder bluffs should generally be discouraged from constructing new erosion control measures or replacing existing structures, and if that is not possible, to minimize adverse impacts to sediment conveyance systems.
- SMP11.1c. New or expanded structural shore stabilization, including bulkheads, is allowed only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.
- SMP11.1d. Proponents of new shoreline uses and development should plan, design, locate, construct and maintain the use/development to avoid the need for structural shoreline armoring works using all methods available.
- SMP11.1e. Affected property owners and public agencies should be encouraged to coordinate shoreline stabilization measures for an entire drift sector or homogeneous shoreline reach in order to avoid exacerbating erosion on adjacent properties.
- SMP11.1f. To assure that shoreline modifications do not result in a net loss of ecological functions, the cumulative effects of allowing shoreline modifications along segments of shoreline should be evaluated prior to granting individual shoreline permits or exemptions from shoreline substantial development permits.
- SMP11.1g. Structural shoreline stabilization measures should not be approved as a solution to geohydraulic-physical problems such as mass slope failure, sloughing, and landslides caused by factors other than shoreline erosion resulting from tidal action, currents or waves.
- SMP11.1h. Larger works such as jetties, breakwaters, weirs, or groin systems should be permitted only for water-dependent uses

and where mitigated to provide no net loss of shoreline ecological functions and processes.

- SMP11.1i. Lower impact structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, are preferred over higher impact structures.
- SMP11.1j. Development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements or result in a net loss of shoreline ecological functions should be avoided.

## 3.12 Shoreline Use and Development Goals and Policies

**SMP 12.1. Ensure protection of the unique character of the City of Shelton by implementing policies and regulations for land use along the shorelines that are consistent with the Shoreline Management Act. These provisions should ensure that the overall design of land use patterns will locate activities and development in areas of the shoreline that will be compatible with shoreline environment designations, adjacent land uses, and sensitive to, and compatible with, the shoreline environment. Shoreline and water areas with unique attributes for specific long-term uses such as industrial, commercial, residential, water, wildlife, fisheries, recreational and open space should be identified and reserved.**

- SMP 12.1a. Encourage new water-dependent, water-related, and water-enjoyment uses in priority order.
- SMP 12.1b. Encourage mixed-use developments that include and support water-oriented uses and provide a substantial public benefit consistent with the public access and ecological restoration goals and policies of the Act.
- SMP 12.1c. Balance the location, design, and management of shoreline uses throughout the city to prevent a net loss of shoreline ecological functions and processes over time.
- SMP 12.1d. Encourage shoreline uses and development that enhance shoreline ecological functions and/or processes or employ innovative features that further the purposes of this Program.

- SMP 12.1e. Single-family residences are a priority use under the Act when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
- SMP 12.1e. Support the long-term and widespread economic contribution of Shelton's log milling industry and related transportation systems, and ensure that log milling activities continue to function effectively alongside downtown Shelton.
- SMP 12.1f. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline.
- SMP 12.1g. Encourage redevelopment of nonconforming commercial and industrial uses to conforming uses or nonconforming uses with the same or lesser impact on the shoreline. Enhancement of shoreline resources should be incorporated as part of redevelopment.
- SMP 12.1i. Locate nonwater dependent transportation, utilities and essential public facilities outside of shoreline jurisdiction to the maximum extent possible to reduce interference with natural shoreline functions and appropriate shoreline uses.
- SMP 12.1j. Locate utility and transportation corridors to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.
- SMP12.1k. Transportation and 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.
- SMP12.1l. Locate capital facilities improvements appropriately in shoreline areas that are deemed suitable for development.
- SMP12.1m. Consider implications of sea-level rise and other climate change impacts as part of capital facilities and infrastructure projects.

### 3.13 Views and Aesthetics Goals and Policies

- SMP13.1. Ensure that the public will be able to continue enjoying the physical and aesthetic qualities of the shorelines, and that this ability will be increased and enhanced whenever possible.**

- SMP13.1a. Shoreline uses and activities should not impair or detract from the public's visual access to the water.
- SMP13.1b. View enhancement should not include excessive removal or topping of vegetation that partially impairs views.
- SMP13.1c. Shoreline visual access at road ends, public utility sites and public utility rights-of-way should be maintained.
- SMP13.1d. Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side, and views of the development from the water.
- SMP13.1e. Development should provide visual and physical linkage to the shoreline, and enhance the waterfront.
- SMP13.1f. Developments should be designed so that the form, scale, proportion, color, materials, and texture are compatible with shoreline areas.
- SMP13.1g. The City should encourage innovative and effective solutions which cluster and share common improvements, reduce paved areas and otherwise blend construction with the natural setting or with desirable features of the built environment.

### **3.14 Water Quality and Quantity Goals and Policies**

#### **SMP14.1. Protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment, and to maintain and restore natural flow regimes.**

- SMP14.1a. All shoreline uses and activities should be located, designed, constructed and maintained to minimize adverse impacts to water quality.
- SMP14.1b. For all new shoreline development, the rate of stormwater runoff should not exceed pre-project conditions.
- SMP14.1c. Impervious surfaces should be minimized in upland developments to reduce stormwater runoff peaks. Structures and uses creating significant impervious surfaces should include stormwater detention systems to reduce stormwater runoff peaks.

- SMP14.1d. The discharge of silt into water bodies should be minimized during in-water and upland construction.
- SMP14.1e. The location, construction, operation, and maintenance of shoreline uses, developments, and activities should be encouraged to improve the quality of surface and ground water over the long term and mimic natural or pre-project water regimes.
- SMP14.1f. The inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage should be minimized through education, site planning, and best management practices.
- SMP14.1g. The use, maintenance and restoration of appropriate vegetative buffers should be encouraged along surface waters to improve water temperature and reduce the adverse effects of erosion and runoff.
- SMP14.1h. Natural flows should be maintained and restored.

# **CHAPTER 4**

## **SHORELINE ENVIRONMENT DESIGNATIONS**

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### **4.1 Introduction**

Local governments are required, under the Washington State Shoreline Management Act of 1971 through WAC 173-26, to develop and assign a land use categorization system for shoreline areas as a basis for effective Shoreline Master Programs. The state's Shoreline Master Program Guidelines describe the purpose of environment designations in WAC 173-26-191(1)(d). The intent of designating shoreline environments is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given an environment designation based on existing development patterns, natural capabilities and limitations, and the aspirations of the local community.

Environment designations are categories that reflect the type of development that has occurred or should take place in a given shoreline area. The scheme of classifications represents a relative range of development, from high to low intensity land use, and targets types of development to specific areas. The environment classification scheme is intended to work in conjunction with local comprehensive planning and zoning.

Management policies are an integral part of the environment designations and are used to determine land uses and activities that can be permitted in each environment. Development regulations specify how and where permitted development can take place within each shoreline environment. Development Regulations generally govern use, height limits, and setbacks. Additional policies and development regulations are provided for specific situations, uses and developments in other chapters of this Master Program.

### **4.2 Shelton Shoreline Environment Designation Classification System**

The City of Shelton classification system consists of seven shoreline environments that are consistent with, and implement, the Washington State Shoreline Management Act (Chapter 90.58 RCW), the Shoreline Master Program Guidelines (Chapter 173-26 WAC), and the City of Shelton Comprehensive Plan. These environment designations have been assigned consistent with the corresponding designation criteria provided for each environment. In delineating environment

designations, the City of Shelton aims to assure that existing shoreline ecological functions are protected while allowing for new development within the proposed pattern and development intensity intended for each designation. As required, these designations are also consistent with policies for restoration of degraded shorelines. The seven shoreline environment designations are as follows:

1. Urban Industrial,
2. Urban Multi-Purpose,
3. Residential,
4. Urban Goldsborough Creek,
5. Conservancy,
6. Aquatic Harbor, and
7. Aquatic Conservancy.

## **4.2.1 Shorelands and Aquatic Shoreline Environments**

The shoreline environments are divided into two categories: “upland” or shoreland environments (Urban Industrial, Urban Multi-Purpose, Residential, Urban Goldsborough Creek, and Conservancy), which apply to areas landward of the ordinary high water mark (OHWM), and “aquatic” environments (Aquatic Harbor and Aquatic Conservancy), which apply to areas waterward of the OHWM.

To determine if a particular use is allowable in a shoreland environment, refer to the applicable environment designation in Table 6-1 (Chapter 6).

To determine if a use is allowable in the aquatic environment refer to both the applicable aquatic environment designation and the adjoining shoreland environment designation. If the permit requirements vary between the aquatic environment and the adjoining shoreland environment, the more restrictive requirement shall apply to uses and activities in the aquatic environment. For example, if either the adjoining shoreland environment or the aquatic environment indicates an “X” in Table 6-1, the use shall be prohibited.

## **4.3 General Shoreline Environment Policies**

This Program establishes the following two general policies for the Shelton shoreline environment designation system:

1. Uses that are consistent with the character of the specific shoreline environment should be encouraged; and
2. Existing uses that are incompatible with their shoreline environment designations shall be subject to Master Program provisions applicable to nonconforming shoreline uses and modification activities.

## 4.4 Shoreline Environment Designations

The following section contains definitions, purpose statements, designation criteria and management policies for each of the seven shoreline environment designations established by this Program. Areas included in each shoreline environment are listed in this section and shown in Figure 4-1. The management policies are implemented through use regulations and development standards included in Tables 6-1, 6-2 and 6-3, and Chapters 5 and 6.

### 4.4.1 Urban Industrial Shoreline Environment Designation

#### *Definition*

The Urban Industrial environment includes areas and shorelines abutting navigable waters with sufficient shoreland space and transportation access for water-oriented industrial activities.

#### *Purpose*

The purpose of the Urban Industrial environment designation is:

1. Primarily, to provide areas for large-scale maritime industries, port facilities and supporting facilities; secondarily, to provide for public access and water-oriented development; and
2. To protect existing ecological functions and restore ecological functions in areas that have been previously degraded.

#### *Criteria for Designation*

Areas to be designated Urban Industrial should have one or more of the following characteristics:

1. Areas planned for high-intensity, water-oriented activities that are proximate to navigable channels with arterial roadway and/or rail service and with sufficient space to support water-dependent or water-related industrial activities; or

2. Areas characterized by intensive industrial development such as timber processing and transporting or other high-intensity uses that are water-dependent.

### *Management Policies*

In addition to the other applicable policies and regulations of this Program the following management policies shall apply:

1. Use of this land should be primarily port-related water-dependent uses and supporting services. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be permitted except as part of mixed-use developments and where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
2. New development should be required to provide physical and visual access to shorelines whenever possible and consistent with constitutional and statutory limitations, provided such access does not interfere with industrial operations or endanger public health and safety. Where public access is not feasible, off-site public access should be required, if possible, if it is in compliance with the City of Shelton's public access objectives.
3. Continued efforts by public and private industries to improve air and water quality should be encouraged.
4. Efforts to improve water quality and reduce impacts from stormwater runoff during shoreline development should be encouraged.
5. Actions to address problems of noise, visual impact, dust and light should be encouraged. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, vegetative screening and maintenance of existing natural vegetative buffers.
6. Redevelopment of existing underutilized shoreline areas should be encouraged.
7. Recognition and long term preservation of historical, archaeological, or cultural aspects that may exist in urban areas should be encouraged. Alternatives to loss or alteration to such resources should be pursued whenever feasible.
8. New development should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.
9. The City should continue to work with the Department of Ecology on addressing dioxin and wood debris in sediments of Shelton Harbor.

10. The public's ability to view appropriate industrial areas from public access sites should be encouraged.
11. Restoration projects should be encouraged, such as restoring the Goldsborough Creek channel to remove armoring and increase in-stream habitat complexity; recreating off-channel habitat; controlling and treating stormwater runoff; planting native vegetation; and moving log-storage operations away from the shoreline into deeper water consistent with the Shelton Restoration Plan.

### *Areas Designated*

The Urban Industrial environment applies to the following areas:

1. Lands above the OHWM on Oakland Bay beginning at the eastern boundary of Elk Street right-of-way (ROW) (extended) and extending westerly and southerly to the eastern boundary of Holman Street ROW (extended).
2. Lands above the OHWM above the south side of Goldsborough Creek from its mouth on Oakland Bay westward to the western boundary of Front Street ROW.
3. Lands above the OHWM on the north side of Goldsborough Creek from its mouth to the western boundary of the Front Street ROW.

## **4.4.2 Urban Multi-Purpose Shoreline Environment Designation**

### *Definition*

The Urban Multi-Purpose environment is an area planned for or characterized by high-intensity shoreline uses featuring a mix of industrial, commercial, residential or recreational development.

### *Purpose*

The purpose of the Urban Multi-Purpose environment designation is:

1. To ensure optimum use of shorelines within urbanized areas by providing for high-intensity public, residential or commercial activities and by managing development so that it enhances the natural shoreline character and maintains shorelines for a multiplicity of urban uses;
2. To increase public access and opportunities for people to enjoy the shoreline; and
3. To restore ecological functions in areas that have been previously degraded.

### *Criteria for Designation*

Areas to be designated Urban Multi-Purpose should have one or more of the following characteristics:

1. Areas of high-intensity shoreline use including industrial, commercial, residential and recreational activity;
2. Areas designated in an adopted City of Shelton plan for a mix of high-intensity industrial, commercial, residential or recreational uses; or
3. Areas used for intensive port activity, excluding those areas used primarily for deep-draft, ocean-going vessels.

### *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. Redevelopment should be encouraged within already developed areas and new development in areas planned for multi-purpose urban uses.
2. New development should be required to provide both physical and visual access to shorelines whenever possible and consistent with constitutional and statutory limitations, except where safety, security, or other considerations preclude it.
3. Public outdoor recreation facilities should be encouraged at Goose Lake. Preferred uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.
4. New uses and activities that are dependent on a shoreline location should be given priority. Second priority should be given to water-related and water-enjoyment uses. Third priority should be given to nonwater-oriented uses.
5. Restoration of shoreline ecological function concurrent with development and redevelopment should be a priority.
6. Landscaping and screening should be encouraged for existing and new activities that have the potential for adversely affecting adjacent properties.
7. Continued efforts by public and private industries to improve the quality of air and water should be encouraged.
8. Actions to address noise, visual, dust, and glare impacts should be encouraged. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting and architectural standards, and maintenance of natural vegetative buffers.

9. Recognition and long term preservation of historical, archaeological, or cultural aspects that may exist in urban areas should be encouraged. Alternatives to loss or alteration to such resources should be pursued whenever feasible. Encourage use of these areas for their educational, historical, cultural and scientific benefits.
10. A mix of compatible water-oriented uses and supporting services should be encouraged to provide opportunities for industrial, recreational, residential or commercial development.
11. Improvements to the visual qualities of this environment should occur as part of redevelopment.
12. New development should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with relevant state and federal law.
13. The City should continue to work with the Department of Ecology and private landowners on addressing sediment and soil contamination concerns in Goose Lake.
14. Efforts to improve water quality and reduce impacts from stormwater runoff should be encouraged during shoreline development.
15. Conservation and/or restoration projects should be encouraged, such as controlling and treating stormwater runoff; protecting existing native vegetation; and moving log-storage operations away from the shoreline into deeper water consistent with the Shelton Restoration Plan.

### *Areas Designated*

The Urban Multi-Purpose environment applies to the following areas:

1. Lands above the OHWM on Oakland Bay beginning at the eastern boundary of Elk Street ROW (extended) and extending northerly and easterly (intended to extend with City limits) to the City limits.
2. Lands above the OHWM on Oakland Bay beginning at the eastern boundary of the Holman Street ROW extended and extending easterly to the eastern boundary of Puget Street ROW (extended).
3. Lands above the OHWM on the north and south banks of Goldsborough Creek from the westernmost boundary of the Front Street ROW to the western boundary of First Street.
4. Land above the OHWM of Goose Lake.

### 4.4.3 Residential Shoreline Environment Designation

#### *Definition*

The Residential environment is an area planned for and/or characterized by high-intensity residential development.

#### *Purpose*

The purpose of the Residential environment designation is to accommodate residential development and appurtenant structures in areas already developed with or planned primarily for residential uses; and to encourage recreational uses and public access.

#### *Criteria for Designation*

Areas to be designated Residential should have one or more of the following characteristics:

1. Areas that are predominantly developed with single-family or multi-family residential development;
2. Areas planned and platted for residential development but not predominantly characterized by critical areas and channel migration zones;
3. Areas with a proliferation of docks/piers and structural armoring; or
4. Areas developed with or planned for highly intensive recreational uses (e.g., marinas, boat launches).

#### *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. New development should be designed and located to preclude the need for shoreline armoring, flood control works, vegetation removal and other shoreline modifications.
2. The scale and density of new uses and development should be compatible with, and protect or enhance, the existing residential character of the area while sustaining or enhancing shoreline ecological functions and processes.
3. Public outdoor recreation facilities or other public access should be encouraged if compatible with the character of the area. Preferred uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.

4. Multi-family residential, multi-lot (4 or more lots) and recreational developments should provide shoreline areas for joint use and public access to the shoreline.
5. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
6. Efforts to improve water quality and reduce impacts from stormwater runoff should be encouraged during shoreline development.
7. Conservation and/or restoration projects should be encouraged, such as protecting existing forested riparian areas on Johns Creek; increasing trees and vegetation on Island Lake; and controlling aquatic weeds on Island Lake consistent with the Shelton Restoration Plan.
8. Recognition and long term preservation of historical, archaeological, or cultural aspects that may exist in urban areas should be encouraged. Alternatives to loss or alteration to such resources should be pursued whenever feasible.

### *Areas Designated*

The Residential environment applies to the following areas:

1. Lands above the OHWM of Island Lake, except for the large wetland located south of East Island Lake Drive which is designated Conservancy.
2. Lands above the OHWM on Johns Creek, from southern ROW boundary of E Meyer Lake Road north to northernmost Urban Growth Area limits.
3. Lands above the OHWM on Mill Creek.

## **4.4.4 Urban Goldsborough Creek Shoreline Environment Designation**

### *Definition*

The Urban Goldsborough environment consists of areas planned for or characterized by medium-intensity shoreline uses featuring a mix of industrial, commercial, forestry, residential, transportation or recreational development on Goldsborough Creek upstream of First Street. The area includes primarily residential uses that are set back from the Goldsborough Creek corridor.

### *Purpose*

The purpose of the Urban Goldsborough Creek environment designation is:

1. To enhance and restore the natural qualities of the Goldsborough Creek corridor;

2. To increase shoreline public access along the corridor, and maximize recreational opportunities; and
3. To provide an amenity for the surrounding residential neighborhood.

### *Criteria for Designation*

Areas to be designated Urban-Goldsborough Creek should have one or more of the following characteristics:

1. Areas of medium-intensity shoreline use including a mix of residential, commercial, forestry, transportation or recreational development, located on Goldsborough Creek with significantly altered shoreline ecological functions and processes; or
2. Areas designated in an adopted City of Shelton plan for a mix of medium-intensity residential, industrial, commercial, or recreational uses, located on Goldsborough Creek with significantly altered shoreline ecological functions and processes.

### *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. Protect the natural character and shoreline ecological functions and processes of the creek by complying with buffers and setbacks, enhancing native vegetation, and prohibiting unnecessary structural modifications.
2. Require new development to provide both physical and visual access to shorelines whenever possible and consistent with constitutional and statutory limitations, except where safety, security or other considerations preclude it.
3. Require final development of these areas to be compatible with and not adversely affect an adjacent environment by addressing impacts such as height, bulk, and noise.
4. Require that new developments do not result in a net loss of shoreline ecological functions.
5. Improvements to the visual qualities of this environment should occur as part of redevelopment.
6. Encourage efforts to improve water quality and reduce impacts from stormwater runoff during shoreline development.
7. The City should encourage conservation and/or restoration projects, such as recreating off-channel habitat; enhancing riparian trees and forest;

improving water quality; and improving fish passage consistent with the Shelton Restoration Plan.

8. Recognition and long term preservation of historical, archaeological, or cultural aspects that may exist in urban areas should be encouraged. Alternatives to loss or alteration to such resources should be pursued whenever feasible.

### *Areas Designated*

The Urban Goldsborough Creek environment applies to the following areas:

1. Lands above the OHWM on the north side of Goldsborough Creek from the western boundary of the First Street ROW westward to the westernmost boundary of West Railroad Avenue.
2. Lands above the OHWM on the south side of Goldsborough Creek between the eastern boundary of 13th Street (extended northward from the south) westward to a point 120 feet east of 16th Street extended.
3. Lands above the OHWM on the south bank of Goldsborough Creek from the western boundary of the railroad crossing (west of Angle Side Road) eastward to the western boundary of the Front Street ROW.
4. Lands above the OHWM on the north and south side of Goldsborough Creek from the westernmost boundary of West Railroad Avenue westward to a point 1,750 feet west of State Route 101.

## **4.4.5 Conservancy Shoreline Environment Designation**

### *Definition*

The Conservancy environment includes areas relatively free of human development with intact shoreline ecological functions. It may be an area which has been disturbed by human use but which has returned to a condition currently without human influence. It includes areas unable to support new development or uses without significant adverse impacts to shoreline ecological functions or risk to human safety.

### *Purpose*

The purpose of the Conservancy environment designation is:

1. To protect, conserve, and manage those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use.

2. To provide for very low-intensity uses in order to maintain the ecological functions and ecosystem-wide processes.
3. To restore degraded shorelines within this environment.
4. To provide for low-intensity public shoreline access and recreation.

### *Criteria for Designation*

Areas to be designated Conservancy should have one or more of the following characteristics:

1. Areas unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety. Such areas include:
  - a. Landslide and erosion hazards.
  - b. High-quality bluff-backed beach, barrier beach, barrier estuaries, and deltas.
  - c. Feeder bluffs that have minimal or no existing development above or below the slope.
2. Areas that are ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity. Such areas include:
  - a. High-quality estuaries.
  - b. High-quality accretional spits.
  - c. Areas that are critical for the support of priority wildlife species (waterfowl concentrations, bald eagle habitat).
  - d. Areas with which federal or state endangered, threatened, and sensitive species of wildlife have a primary association.
  - e. Cold water inputs and springs that have been identified to be critical for salmonid habitats.
  - f. High-value wetland complexes with important ecological functions that have generally intact buffers.
  - g. Forested riparian areas predominantly composed of native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.
3. Areas considered to represent ecosystems and geologic types that are of particular scientific and educational interest.

## *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. Allow uses which do not substantially degrade the ecological functions or natural character of the shoreline area.
2. Allow low-impact public access and recreational uses, such as gravel trails, view points, and non-motorized gravel boat launches, in locations where access will not compromise shoreline functions or infringe on private property rights.
3. Recognition and long-term preservation of historical, archaeological or cultural aspects that may exist in urban areas should be encouraged. Alternatives to loss or alteration to such resources should be pursued whenever feasible. Encourage use of these areas for their educational, historical, cultural and scientific benefits.
4. New shoreline stabilization of bluff-backed beaches is strongly discouraged.
5. Do not permit new development or significant vegetation removal that would reduce the capability of the shoreline to perform a full range of ecological functions or processes.
6. Encourage efforts to improve water quality and reduce impacts from stormwater runoff during shoreline development.
7. Encourage conservation and/or restoration projects, such as protecting associated wetlands; protecting bluff-backed beaches; protecting or restoring native riparian vegetation; and improving fish passage consistent with the Shelton Restoration Plan.

## *Area Designated*

The Conservancy environment applies to the following areas:

1. Lands above the OHWM on the south side of Goldsborough Creek from the western boundary of the railroad crossing (west of Angle Side Road) to the eastern boundary of 13th Street (extended northward from the south).
2. Lands above the OHWM on the south side of Oakland Bay from the eastern boundary of the inner harbor line to the eastern boundary of Puget Street.
3. Lands above the OHWM on the south side of Goldsborough Creek extending from a point 120 feet east of 16th Street (extended) westward to West Railroad Avenue (upon annexation to the City).

4. Lands above the OHWM on the northeast side of Goldsborough Creek extending from a point 1,750 feet west of State Route 101 westward to the Shelton Urban Growth Area limits.
5. Associated wetland located south of Island Lake, south of East Island Lake Drive.
6. Lands above the OHWM of Johns Creek from the eastern Urban Growth Area limits, northwesterly to the southern boundary of East Meyer Lake Road ROW and the remainder of Johns Creek within the Shelton Urban Growth Area limits (northwest of Island Lake).

#### **4.4.6 Aquatic Harbor Shoreline Environment Designation**

##### *Definition*

The Aquatic Harbor environment includes all lands and waters waterward of the OHWM that are subject to intense water-dependent uses. This includes intertidal, subtidal and submerged lands in the Shelton Harbor to the Outer Harbor line, except for areas designated Aquatic Conservancy.

##### *Purpose*

The purpose of the Aquatic Harbor environment designation is as follows:

1. To promote the intensive use of the harbor areas for water-dependent industrial, commerce, commercial and recreational uses.
2. To protect, restore and manage the unique characteristics and resources of natural aquatic systems, with priority placed on water quality.

##### *Designation Criteria*

All lands and waters waterward of the OHWM within Shelton Harbor in Oakland Bay that are intensively used for water-dependent industrial or commercial activities should be designated Aquatic Harbor.

##### *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. Structures below the OHWM that are not water-dependent or intended for public access or ecological restoration and uses that will substantially degrade the existing character of the area, including shoreline ecological functions, should be prohibited.

2. The size of new overwater structures should be limited to the minimum necessary to support the structure's intended use.
3. Developments within the Aquatic Harbor environment should be compatible with the adjoining shoreland environment.
4. New uses and development that have a shoreland connection should also be consistent with the permitted uses in the adjoining shoreland environment. Uses prohibited in the shoreland environment should not be permitted overwater.
5. Uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions including sediment transport and benthic drift patterns.
6. Diverse public access opportunities to water bodies should be encouraged and developed and should be compatible with the existing shoreline uses and natural characteristics of the water body.
7. Several industries using the same tideland facilities should be given preference over single industry use. Multiple use of overwater facilities should be encouraged.
8. All developments and activities using navigable waters or their bedlands should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
9. Filling operations should be accomplished in a manner to prevent a substantial impact on shoreline ecological functions.
10. Development of underwater pipelines and cables on first class tidelands should be discouraged except where adverse impacts to shoreline ecological functions can be shown to be less than the impact of shoreland alternatives. When permitted, such facilities should include adequate provisions to ensure against substantial or irrevocable damage to shoreline ecological functions.
11. Abandoned and neglected structures which cause adverse visual impacts or are a hazard to public health, safety and welfare should be removed or restored to a usable condition consistent with the provisions of this Program unless:
  - a) Retaining such structures provides a net environmental benefit, for example, artificial reef effect of concrete anchors; or
  - b) Such structures can be reused in a manner that helps maintain the character of the City's working waterfront; or

- c) Removing such structures would have substantial potential to release harmful substances into the waterways despite use of reasonable precautions.
12. The City should continue to work with the Department of Ecology on addressing dioxin and wood debris in sediments of Shelton Harbor.
13. Efforts to improve water quality and reduce impacts from stormwater runoff should be encouraged during shoreline development.
14. 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 5.4 of this Master Program as necessary to assure no net loss of ecological functions.

### *Areas Designated*

The Aquatic Harbor environment applies to the following areas:

1. All lands and waters waterward of the OHWM of Shelton Harbor in Oakland Bay.
2. All lands and waters waterward of the OHWM of Goldsborough Creek eastward of the western boundary of First Street.

## **4.4.7 Aquatic Conservancy Shoreline Environment Designation**

### *Definition*

All lands and waters waterward of the OHWM that are not subject to intense water-dependent uses and designated Aquatic Harbor.

### *Purpose*

The purpose of the Aquatic Conservancy environment designation is to protect, restore and manage the unique characteristics and resources of natural aquatic systems.

### *Designation Criteria*

All lands and waters waterward of the OHWM that have one or more of the following characteristics should be designated Aquatic Conservancy:

1. Areas that are not currently intensively used for water-dependent industrial or commercial activities.
2. Streams documented to contain Endangered Species Act listed salmonids (chum salmon, Puget Sound Chinook salmon, and steelhead trout) and

- marine habitats (marine mammal haulouts) that are relatively undeveloped or unaltered.
3. Other freshwater shorelines that provide habitat for priority salmonid species (coho, Kokanee, pink, sockeye) and are relatively unaltered.
  4. High value estuaries that support federally-listed salmonid rearing.
  5. Documented presence of forage fish spawning (herring, surf smelt, and sandlance).
  6. Intact drift cell processes (i.e., sediment source, transport, and deposition).
  7. Important intertidal and subtidal beds of shellfish (clam, oyster, crab, shrimp and geoduck).

### *Management Policies*

In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:

1. Except for special situations involving a public benefit, overwater structures should be discouraged in Goldsborough Creek, Mill Creek, Johns Creek and Oakland Harbor.
2. Overwater structures in Goose Lake and Island Lake are permitted with a strong preference for joint-use or public facilities.
3. When permitted, structures must be water-dependent or intended for public access or ecological restoration. The size of new overwater structures should be limited to the minimum necessary to support the structures' intended use.
4. Developments within the Aquatic Conservancy environment should be compatible with the adjoining shoreland environment.
5. New uses and development that have a shoreland connection should also be consistent with the permitted uses in the adjoining shoreland environment. Uses prohibited in the shoreland environment should not be permitted overwater.
6. Uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrologic conditions including sediment transport and benthic drift patterns.
7. Diverse public access opportunities to water bodies should be encouraged and developed and should be compatible with the existing shoreline uses and natural characteristics.
8. Aquaculture practices should be encouraged in those tidelands, waters and beds most suitable for such use.

9. In appropriate areas, fishing and recreational uses of the water should be protected against competing uses that would interfere with these activities.
10. All developments and activities using navigable waters or their beds should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
11. Deep-draft uses, if allowed, should not occur in areas requiring extensive initial or maintenance dredging.
12. Filling operations should be accomplished in a manner that prevents a substantial impact on shoreline ecological functions.
13. Development of underwater pipelines and cables on first class tidelands will be discouraged except where adverse impacts to shoreline ecological functions can be shown to be less than the impact of shoreland alternatives. When permitted, such facilities should include adequate provisions to ensure against substantial or irrevocable damage to shoreline ecological functions.
14. Abandoned and neglected structures which could cause adverse visual impacts or are a hazard to public health, safety and welfare should be removed or restored to a usable condition consistent with the provisions of this program unless:
  - a. Retaining such structures provides a net environmental benefit, for example, artificial reef effect of concrete anchors; or
  - b. Such structures can be reused in a manner that helps maintain the character of the City's working waterfront; or
  - c. Removing such structures would have substantial potential to release harmful substances into the waterways despite use of reasonable precautions.
15. The City should continue to work with the Department of Ecology on addressing dioxin and wood debris in sediments of Shelton Harbor.

### *Areas Designated*

All lands and waters which lie waterward of the OHWM; excluding areas designated Aquatic Harbor. Aquatic Conservancy areas include:

1. All lands and waters waterward of the OHWM of Goldsborough Creek westward of the western boundary of the First Street ROW.
2. All lands and waters waterward of the OHWM of Johns Creek.
3. All lands and waters waterward of the OHWM of Mill Creek.

4. All lands and waters waterward of the OHWM of Island Lake.
5. All lands and waters waterward of the OHWM of Goose Lake.

## **4.5 Official Shoreline Environment Designation Map**

The purpose of the official shoreline environment map is to depict those approximate areas of the City of Shelton falling under the jurisdiction of the Master Program and the applicable shoreline environment designations.

### **4.5.1 Map Established**

The location and extent of areas under the jurisdiction of this Master Program, and the boundaries of the various shoreline environments affecting the lands and waters of the City, shall be shown on the map entitled, "Official Shoreline Environment Map, City of Shelton, Washington." The official shoreline map and all the notations, references, and amendments thereto and other information shown thereon are hereby made a part of this Master Program, just as if such information set forth on the map were fully described and set forth herein.

In the event that new shoreline areas are discovered (e.g., associated wetlands) that are not mapped and/or designated on the official shoreline map, these areas are automatically assigned a Conservancy designation until the shoreline can be redesignated through a Program amendment.

In the event of a mapping error, the City will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

### **4.5.2 File Copies**

The Official Shoreline Environment Map shall be the custody of the Department of Community and Economic Development and shall be available for public inspection during normal business hours. Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this Master Program, an unofficial shoreline environment map is included with this Program as Figure 4-1.

### **4.5.3 Map Amendments**

The Official Shoreline Environment Map is an integral part of this Program and may not be amended except upon approval by the City and Ecology, as provided under the Act.

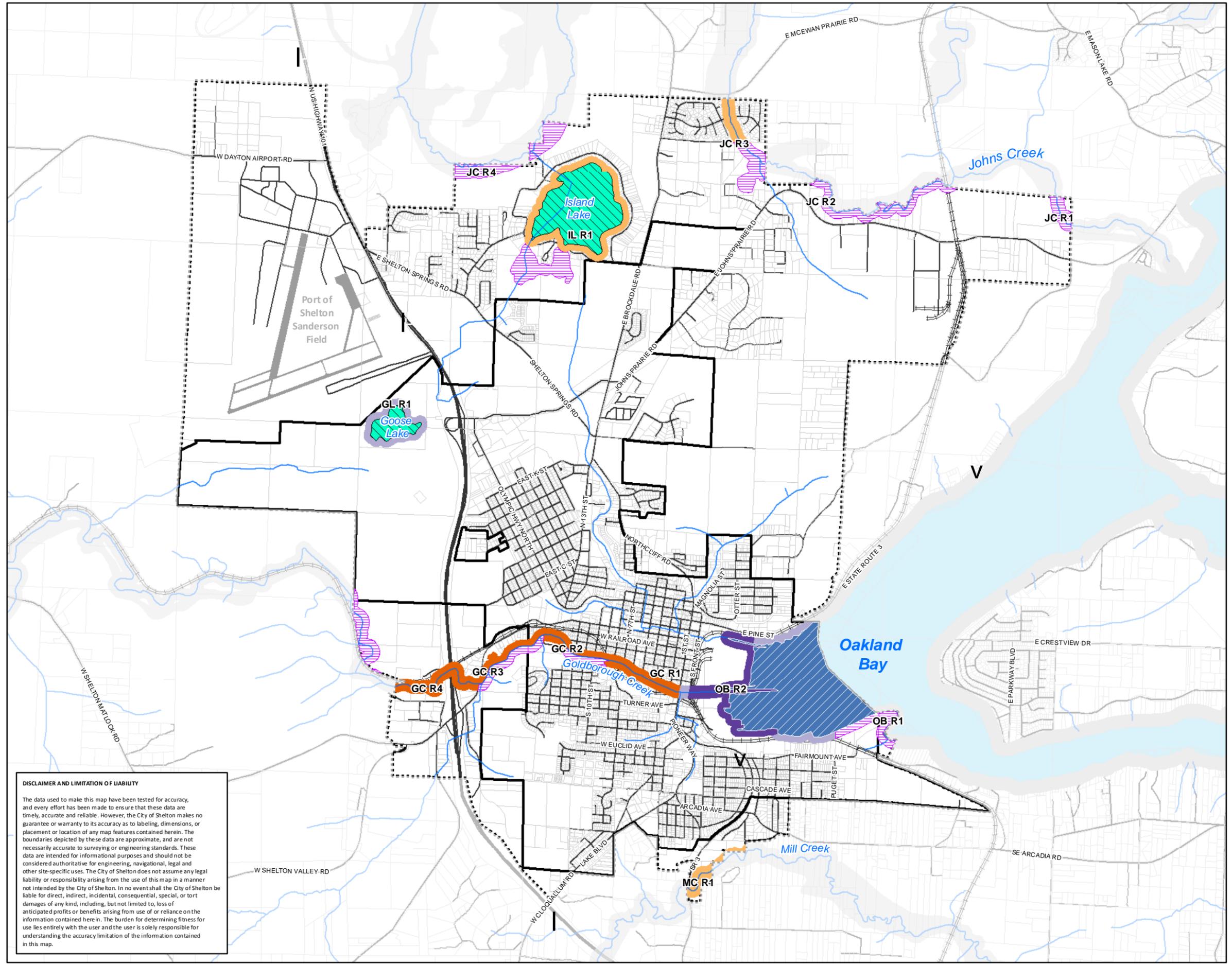
## 4.5.4 Boundary Interpretation

Where the environment designation is uncertain, the Official Shoreline Environment Map shall be used to determine the boundary location. If the conflict cannot be resolved using the shoreline environment map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys or other roadways shall be construed to follow such center lines;
2. Boundaries indicated as approximately following lot, tract, section or other subdivision lines shall be construed as following such subdivision lines;
3. Boundaries indicated as parallel to or extensions of features identified in 1 and 2 above shall be so construed;
4. When not specifically indicated on the shoreline environment map, distances shall be determined by the scale of the map; and
5. Where existing physical or legal features vary with those shown on the shoreline environment map and cannot be determined with certainty by applying subsections 1 through 4 above, the Shoreline Administrator shall interpret the boundaries, with deference to actual conditions.

## 4.5.5 Shoreline Designation Changes and Annexations

The City of Shelton has predesignated environments on shorelines located outside of existing City boundaries and within the Urban Growth Area. When a portion of shoreline jurisdiction is brought into City limits, a new shoreline designation shall be assigned in accordance with the Official Shoreline Environment Map. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to add a portion of shoreline jurisdiction from an Urban Growth Area.



- Legend**
- Shoreline Environment Designations (SED)**
- Aquatic Conservancy
  - Aquatic Harbor
  - Conservancy
  - Residential
  - Urban Goldsborough Creek
  - Urban Industrial
  - Urban Multipurpose
  - City Limits
  - Urban Growth Boundary
  - Streams
  - Parcels
  - County SMP Update Planning Areas

NOTE: The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Mason County Shoreline Master Program (SMP).

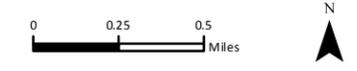
This map is intended for planning purposes only. The map depicts the approximate location and extent of "shorelines of the state" based on the following elements: the ordinary high water mark (OHWM), a 200 foot buffer of the OHWM, the adopted FEMA floodplain, and potentially associated wetlands. The actual extent of the shoreline jurisdiction will require a site-specific evaluation to identify the

SMA Grant Agreement No. G1100005  
Task 2.3

Coordinate System: State Plane NAD1983 (Ft)  
Washington South FIPS 4602

NOTE: Map data shown here are the property of the sources listed below. Inaccuracies may exist, and ESA implies no warranties or guarantees regarding any aspect of data depiction.

Data Sources: City of Shelton, 2012; ESA, 2011; Mason County, 2011 (2010); Ecology, 2009



**DISCLAIMER AND LIMITATION OF LIABILITY**

The data used to make this map have been tested for accuracy, and every effort has been made to ensure that these data are timely, accurate and reliable. However, the City of Shelton makes no guarantee or warranty to its accuracy as to labeling, dimensions, or placement or location of any map features contained herein. The boundaries depicted by these data are approximate, and are not necessarily accurate to surveying or engineering standards. These data are intended for informational purposes and should not be considered authoritative for engineering, navigational, legal and other site-specific uses. The City of Shelton does not assume any legal liability or responsibility arising from the use of this map in a manner not intended by the City of Shelton. In no event shall the City of Shelton be liable for direct, indirect, incidental, consequential, special, or tort damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising from use of or reliance on the information contained herein. The burden for determining fitness for use lies entirely with the user and the user is solely responsible for understanding the accuracy limitation of the information contained in this map.

**Figure 4-1**  
**Shoreline Environment Designations**

**City of Shelton**  
**Shoreline Master Program**  
**May 2013**

# **CHAPTER 5**

## **GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS**

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The following general regulations apply within all shoreline environment designations. These provisions are to be used in conjunction with the more specific shoreline use and modification regulations in Chapter 6.

### **5.1 General Shoreline Use and Development Regulations**

1. Shoreline uses and developments that are water-dependent are preferred uses in the shoreline and shall be given priority.
2. Nonwater-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
3. All shoreline developments and uses shall be located, designed and constructed to avoid, minimize and mitigate for adverse impacts to shoreline ecological functions.
4. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of, or minimize adverse impacts to, critical saltwater habitat and critical fish and wildlife habitat conservation areas, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not feasible, the developments shall incorporate mitigation measures to protect species and habitat functions consistent with SMC 21.64.087.
5. All heavy construction equipment, and fuel storage, repair and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions.
6. All debris, overburden and other waste materials from construction shall be disposed of to prevent them from entering any water body by erosion from drainage, high water or other means.
7. Navigation channels shall be kept free of hazardous or obstructing development or uses.
8. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity).

In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

9. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this program.
10. Projects taking place on lands that a brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.
11. Project proponents for in-water work shall contact the Washington State Department of Fish and Wildlife and affected Tribes early in the development process.
12. Critical area studies may be required by the Shoreline Administrator pursuant to SMC 21.64.081 and 21.64.082 for development in, or adjacent to, critical areas and critical saltwater habitat areas.

## **5.2 General Shoreline Modification and Development Regulations**

1. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline modification projects.
2. All new development activities shall be located and designed to prevent or minimize the need for shoreline stabilization and flood protection works such as bulkheads, other bank stabilization, fills, levees, dikes, groins, jetties or substantial site regrades. All development in the floodplain shall also include an assessment of potential effects the project would have on channel migration, and incorporate measures to mitigate any adverse impacts on channel migration.
3. The City shall require and utilize the following information during its review of shoreline modification activity, shoreline stabilization and flood protection proposals:
  - a. Purpose of project;
  - b. Hydraulic characteristics ;
  - c. Existing shoreline stabilization and flood protection devices;

- d. Construction material and methods;
  - e. Physical, geological and/or soil characteristics of the area;
  - f. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;
  - g. Alternative measures (including nonstructural) which will achieve the same purpose;
  - h. Physical or geologic stability of uplands; and
  - i. Potential impact upon area shore processes, adjacent properties and upland stability.
4. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon and trout spawning areas except when the primary purpose of the project is for fish or wildlife habitat enhancement.
  5. Shoreline stabilization or flood control works shall, to the extent possible, be planned, designed and constructed to allow for channel migration. These works shall not reduce the volume and storage capacity of rivers and adjacent wetlands or floodplains.

### **5.3 No Net Loss**

1. Uses and developments that cause a net loss of ecological functions and processes shall be prohibited. Any use or development that causes the future ecological condition to become worse than current condition shall be prohibited.
2. All shoreline use and development, including preferred uses, emergency actions and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and/or maintained in a manner that maintains shoreline ecological processes and functions.

### **5.4 Mitigation**

1. To assure no net loss of ecological functions, mitigation shall be applied to all developments or proposals subject to this Master Program to offset any impacts to shoreline ecological functions, habitats, or processes in the following sequence of steps listed in order of priority.
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action, or altering the action to avoid impacts;

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering 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; and
  - e. Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the impact and the mitigation project and taking appropriate corrective measures.
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. In addition to requirements of this section, SMC 21.64.087 shall apply.

## 5.5 Critical Areas Protection

### 5.5.1 Applicable Critical Areas

For purposes of this Program, the following critical areas, defined in SMC Title 21, will be protected under this Program:

1. Frequently Flooded Areas;
2. Wetlands;
3. Geologically Hazardous Areas;
4. Fish and Wildlife Habitat Conservation Areas; and
5. Aquifer Recharge Areas.

### 5.5.2 General Provisions

1. The City of Shelton Critical Area Protection Ordinance, SMC 21.64 (Ordinance No. 1689-1206, adopted December 18, 2006), the Aquifer Recharge Areas provisions in SMC 21.66, and the Flood Damage Prevention provisions in SMC 18.10 are hereby adopted in whole as a part of this Program, except for the following:
  - a. SMC 21.64.083 “Reasonable use:” Within shoreline jurisdiction, reasonable use requests must be processed as a Variance, consistent with Chapter 2, Section 2.5.

- b. SMC 21.64.091 “Appeals:” Within shoreline jurisdiction, any appeals of an administrative decision shall be appealed to the state Shorelines Hearings Board pursuant to WAC 173-27-220 and the provisions of section 7.9 of this SMP.
- c. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as amended.
- d. In shoreline jurisdiction, the definition of hydric soils in SMC 21.64.030 does not apply. The definition of hydric soil shall be derived from the language in the Corps of Engineers Wetland Delineation Manual and the U.S. Army Corps of Engineers (2010) Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0).
- e. In shoreline jurisdiction, the wetland point scale to separate wetland categories in SMC 21.64.100 (D) does not apply. Category I wetlands are those that score 23 or more points, Category II wetlands are those that score between 20 and 22 points, Category III wetlands are those that score between 16 and 19 points, and Category IV wetlands are those that score between 9 and 15 points.
- f. In shoreline jurisdiction, the wetland point scale used to assign wetland buffer dimensions in SMC 21.64.130(C) and (D) do not apply. Low wildlife function will be designated by habitat scores of 3-4 points, moderate wildlife function will be designated by habitat scores of 5-7 points, and high wildlife function will be designated by scores of 8-9 points. The tables are amended as follows:

Table 1. Buffer Dimensions.

Wetland Category	Low Wildlife Function (less than 5 points)	Moderate Wildlife Function (5-7 points)	High Wildlife Function (8-9 Points)
	Buffer Width (feet)		
Category IV	50	50	50 <sup>1</sup>
Category III	80	150	See Table 2
Category II	100	150	See Table 2
Category I	100	150	See Table 2

<sup>1</sup>Habitat scores over seven points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating system of sixteen or less.

Table 2. Buffers for Wetlands with High Wildlife Function (Eight or Nine Points or More).

Wetland Category	Points for Habitat from Wetland Rating Form	
	8	9
Category I, II, and III	195	225

All references to the Critical Area Protection Ordinance SMC 21.64 (CAO) are for this specific version.

- g. In shoreline jurisdiction, the point scale used in reference to isolated wetlands in SMC 21.64.135(C) and (D.3) do not apply. Reference to 20 points or greater shall be to 5 points or greater.
2. Shoreline uses, activities, developments and their associated structures and equipment shall be located, designed and operated to protect the ecological processes and functions of critical areas.
3. Critical areas within the shoreline jurisdiction shall be regulated for any use, development or activity, as provided in accordance with this Program and SMC Chapter 21.64, whether or not a shoreline permit or written statement of exemption is required.
4. Provisions of the critical area regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.
5. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with SMC Title 21.64 Critical Areas.
6. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and SMC Chapter 21.64. However, these provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program.
7. Docks and piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
  - a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with the protection of the public trust, as embodied in RCW 90.58.020;
  - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

- c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- d. The project is consistent with the State's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that;

- a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

All over-water and near-shore developments in marine and estuarine waters shall provide an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology.

## 5.6 Site Planning and Development

### 5.6.1 General

1. Stormwater infiltration systems shall be employed to mimic the natural infiltration and groundwater interflow processes where feasible and in a manner consistent with SMC 21.64.380B and the currently adopted City Stormwater Management Manual.
2. Accessory uses that do not require a shoreline location shall be sited away from the shoreline and upland of the principal use.
3. Parking, storage, and nonwater-dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use, where feasible.
4. Impervious surfaces shall be minimized to the extent feasible. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized. Applicants are encouraged to use alternative surfaces and Low Impact Development (LID) techniques where feasible.
5. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be

provided with safe and convenient circulation facilities throughout project sites.

6. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement between properties and shoreline areas to the extent feasible.
7. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
8. Fencing, walls, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement, unless deemed necessary by Shoreline Administrator for safety and security purposes.

### 5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing, grading, fill and excavation shall minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of SMC Chapter 13.02 Stormwater Management, the City of Shelton Department of Public Works Design and Construction Standards, and SMC 21.64.330L.
2. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary to accommodate the authorized use.
3. Surface drainage systems or earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
4. Clearing and grading shall not result in substantial changes to surface water drainage patterns off of the project site and onto adjacent properties.
5. Upon completion of construction, remaining cleared areas shall be replanted with native vegetation and/or plant species.
6. Clearing and grading shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.
7. Clearing and grading shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
8. Fills shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
9. Fill waterward of OHWM shall be permitted as a conditional use only and under the following circumstances:

- a. In conjunction with a water-dependent or public access use permitted by this Master Program;
  - b. Cleanup and/or disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - c. Disposal of dredged material in accordance with a DNR Dredged Material Management Program;
  - d. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not to be feasible).
10. Fill waterward of the OHWM shall be permitted for mitigation and ecological restoration and enhancement projects, provided the project is consistent with all other provisions of this program.
  11. Permitted fill activities waterward of the OHWM must demonstrate that they comply with the following standards:
    - a. Alternatives to fill are not feasible;
    - b. Fill materials will not adversely affect water quality;
    - c. Fill shall be deposited to minimize disruption of normal surface and groundwater passage;
    - d. Timing will minimize damage to water quality and aquatic life.
  12. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills.
  13. Fill shall be permitted only where it is demonstrated that the proposed action will not:
    - a. Result in significant damage to water quality, fish, shellfish and/or wildlife habitat; or
    - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
  14. Fill within the one-hundred-year (100-year) floodplain requires demonstration that fill will not reduce the floodplain water storage capacity or in any way increase flood hazard so as to endanger public safety.
  15. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration within stream subestuaries.

16. Fill in wetlands shall be avoided whenever possible. Fills may be authorized where the applicant follows steps to avoid, minimize and mitigate impacts consistent with SMC 21.64.143 and 144.
17. Fills shall be designed, constructed and maintained to prevent, minimize and control all material movement, erosion and sedimentation from the affected area.
18. Fill materials shall be sand, gravel, soil, rock, crushed concrete or a similar material. Use of polluted dredge materials and sanitary fill materials is prohibited unless allowed as part of an interagency environmental cleanup plan.
19. Fills shall be designed to allow surface water penetration into groundwater supplies where such conditions existed prior to fill.
20. Applications for fill permits shall include the following:
  - a. Proposed use of the fill area;
  - b. Physical, chemical and biological characteristics of the fill material;
  - c. Source of fill material;
  - d. Method of placement and compaction;
  - e. Location of fill relative to natural and/or existing drainage patterns;
  - f. Location of the fill perimeter relative to OHWM;
  - g. Perimeter erosion control or stabilization means; and
  - h. Type of surfacing and runoff control devices.
21. Excavation shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
22. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.
23. Normal nondestructive pruning and trimming of vegetation for maintenance purposes, and removal of hazard trees, shall not be subject to these regulations. Specific provisions of the City of Shelton Critical Areas Ordinance may apply.
24. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed nonforestry use, the general provisions of this Program, and shall be limited to the minimum necessary to accommodate an approved use.

### 5.6.3 Building Design

1. Structures shall be designed to conform to natural contours and minimize disturbance to soils and native vegetation to the extent feasible.
2. Interior and exterior structure lighting shall be designed, shielded and operated, to the extent feasible, to:
  - a. Prevent glare on adjacent properties, public areas or roadways;
  - b. Prevent land, air, and water traffic hazards;
  - c. Reduce night sky effects; and
  - d. Avoid impacts to fish and wildlife.

### 5.7 Vegetation Conservation

1. Existing vegetation within shoreline jurisdiction shall be retained in the riparian zone consistent with Chapter 6, Table 6-3, SMC 21.64.320, and SMC 21.64.380.
2. Removal of native vegetation shall be avoided. Where removal of native vegetation cannot be avoided, it shall result in no net loss of shoreline ecological functions. Mitigation shall be provided consistent with an approved mitigation plan.
3. Selective pruning for safety and view protection is allowed provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.
4. Topping trees in the shoreline is prohibited.
5. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.
6. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to (1) commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority; or (2) flood control levees that are required to be kept free of vegetation that damages their structural integrity.

7. Clearing by hand held equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted within shoreline jurisdiction.
8. Aquatic weed control shall be allowed when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds.
9. Aquatic weed control methods that minimize disturbance to bottom sediment or benthic organisms shall be preferred.
10. Use of herbicides to control aquatic weeds shall be prohibited unless approved for such use by the appropriate agencies.
11. In addition to requirements of this section, SMC 21.64.071 shall apply.

## **5.8 Views and Aesthetics**

1. Shoreline uses and shoreline activities shall not substantially reduce significant water views from public viewpoints.
2. Public street ends, public rights-of-way, and public utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.
3. Submerged public rights-of-way shall be preserved for public benefit.
4. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping (see 5.6.2 Clearing, Grading, Fill, and Excavation and 5.7 Vegetation Conservation).
5. Development on or over the water shall be constructed as far landward as possible to avoid impacting the shoreline and water views of surrounding properties.

## **5.9 Water Quality and Quantity**

1. Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws and in such a manner as to ensure no net loss of ecological function.
2. All shoreline development shall minimize any increase in surface runoff through control, treatment and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affected. Control measures include but are not limited to: Low Impact

Development techniques (LID), dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive-dust controls.

3. All shoreline development shall comply with the applicable requirements of the currently adopted Stormwater Management Manual.
4. Herbicides and pesticides shall not be allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.
5. Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted by the appropriate agencies.
6. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Control Act (RCW 15.58) to prevent contamination and sanitation problems.
7. The release of oil, chemicals or other hazardous materials into the groundwater or surface water or onto shorelands is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
8. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any groundwater or surface water or to be discharged onto shorelands.
9. All materials that may come in contact with water shall be composed of nontoxic 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.

## **5.10 Archeological, Cultural, and Historic Resources**

1. Archaeological sites located in shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites)

and Records) and shall comply with WAC 25-48 as well as the provisions of this Master Program.

**2. Known Historic Properties:**

- a. Permits issued in areas known to contain archaeological resources shall include a requirement that the developer provide for a site inspection and evaluation by a professional archaeologist approved by the City. The archaeologist shall work in coordination with any concerned tribes and consult with the Washington State Department of Archaeology and Historic Preservation. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work resumes or begins on a project.
- b. When the City determines that a site has significant archaeological, natural scientific or historical value, a shoreline permit or exemption letter shall not be issued that would pose a threat to the resources of the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts, or mitigation plan.
- c. Identified historical or archaeological resources shall be considered in site planning for parks, public open space, and public access, with public access to such areas designed and managed so as to give maximum protection to the resource.

**3. Inadvertent Discovery:**

- a. Whenever archaeological resources are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the City, the Washington State Department of Archaeology and Historic Preservation, and affected tribes. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged.
- b. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the construction necessary to protect the project property may be exempted from the shoreline substantial development permit requirement. The City shall notify the State Department of Ecology, the State Attorney General's Office, the Department of Archaeology and Historic Preservation, and affected tribes within one (1) month of granting the exemption.

- c. Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the Shoreline Administrator may require that a historic property management plan be prepared by a qualified professional archaeologist if such action is reasonable and necessary to implement related program objectives.
4. Interpretive signs of historical and archaeological features shall be provided when appropriate.

## 5.11 Emergency Actions

1. Actions taken to address an emergency shall be reasonable under the circumstances; be designed to have the least possible impacts on shoreline ecological functions and processes; and be designed to comply with the provisions of this Master Program, to the extent feasible.
2. Emergency actions shall follow the procedures outlined in SMC 21.64.071(A), Emergency Actions.

## 5.12 Public Access

1. Dedicated space for physical public access shall be required to the extent allowed by law in the review of all shoreline substantial development or conditional use permits in the following circumstances:
  - a. The use or development is a public project; or
  - b. The project is a water-enjoyment or nonwater-oriented use or development; or
  - c. The project is a residential development of more than four (4) dwelling units; or
  - d. The project is a subdivision of land into more than four (4) parcels; or
  - e. The project is a private water-dependent or water-related use or development and one of the following conditions exists:
    - i. The project increases or creates demand for public access;
    - ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;
    - iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.

2. The City bears the burden of demonstrating that a proposed use or development meets any of the preceding conditions.
3. The public access requirement pursuant to Section 5.12 Regulation #1 is met where a residential development of greater than four (4) parcels/dwelling units but less than ten (10) parcels/dwelling units provides community access to the shoreline or to a common waterfront lot/tract for noncommercial recreational use of the property by property owners, residents and guests within the proposed subdivision or multi-family development. The proponent shall provide visual access to the shoreline via view corridors within the subdivision/multi-family development as illustrated on the final plan and as determined by the Shoreline Administrator. Existing lawfully established public access shall be maintained.
4. Public access to the shoreline shall not be required of the following:
  - a. Activities qualifying for a shoreline exemption, per Section 2.3;
  - b. New single-family residential development of four (4) or fewer units; or
  - c. More effective public access is provided through a City of Shelton public access planning process consistent with WAC 173-26-221(4)(c).
5. The Administrator may approve alternatives to on-site, physical public access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:
  - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;
  - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long-term cost of the proposed development;
  - d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from the public access;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; and
6. In order to meet any of the conditions under Section 5.12 Regulation #5 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
  - b. Designing separation of uses and activities (e.g., fences, terracing, hedges, landscaping, etc.); and
  - c. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
7. When on-site, physical public access is deemed to be infeasible based on considerations listed in Sections 5.12 Regulation #5 and 6, the applicant must demonstrate and the City must determine in its findings that visual access to the shoreline, physical access at an off-site location geographically separated from the proposed use/development (e.g., street end, vista, trail system), or community access for residential developments are not feasible. Community access must be provided to the shoreline or to a common waterfront lot/tract for noncommercial recreational use by property owners, residents and guests within the residential development.
  8. Public access associated with public projects should be consistent with the following, to the extent feasible:
    - a. Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.
    - b. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
  9. The design of shoreline uses shall consider steps to minimize blocking, reducing, or adversely interfering with the public's physical access to the water.
  10. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and RCW 36.87.130).
  11. Public access sites shall be connected directly to the nearest public street and shall include provisions for handicapped and physically impaired persons where feasible or required by law.
  12. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
  13. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running concurrently with the authorized land use, at a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).

14. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the City in conspicuous locations at public access sites. In accordance with Section 5.12 Regulation #6.a., signs may control or restrict public access as a condition of permit approval.
15. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.
16. Existing, formal public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

# **CHAPTER 6**

## **SPECIFIC SHORELINE USE AND MODIFICATION REGULATIONS**

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### **6.1 General Provisions**

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.
2. These regulations are intended to work in concert with all sections of this Program and in particular the Goals and Policies (Chapter 3) and General Use and Development Regulations (Chapter 5).

### **6.2 Shoreline Use and Modification Table**

1. Shoreline modification activities must be in support of an allowable shoreline use that conforms to the provisions of this Master Program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or an approved shoreline use are prohibited.
2. Shoreline uses and developments prohibited by this Master Program shall not be considered as a variance or a conditional use.
3. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program. Tables 6-1 and 6-2 identify those uses and modifications that are permitted, may be permitted with a conditional use approval, or are prohibited in each shoreline designation. In the event conflicts exist between the Tables and the text in this chapter, the text shall apply.

**Table 6-1. Shoreline Use Matrix**

Legend: P - Permitted X - Prohibited C - Conditional Use	Urban Industrial	Urban Multi-purpose	Urban - Goldsborough Creek	Conservancy	Residential	Aquatic - Harbor <sup>6</sup>	Aquatic - Conservancy <sup>6</sup>
Shoreline Designation							
Agriculture	X	X	X	P	P	X	X
Aquaculture	P	P	X	X	X	C <sup>1</sup> /P <sup>7</sup>	C <sup>1</sup>
<b>Boating Uses:</b>							
Boat Houses	P <sup>7</sup>	P <sup>7</sup>	X	X	X	P <sup>7</sup>	X
Motorized Boat Launches	P	P	X	X	P <sup>8</sup>	P	P <sup>10</sup>
Nonmotorized Boat Launches	C	P	X	P	P	P	P
Marinas	P	P	X	X	X	P	X
Docks, Piers and Mooring Buoys	P	P	X	X	P	P	C <sup>10</sup>
<b>Commercial Uses:</b>							
Water-dependent	P	P	P	X	X	P <sup>3</sup>	X
Water-related	P	P	P	X	X	C	X
Water-enjoyment	C	P	P	X	X	C	X
Nonwater-oriented	C <sup>2</sup>	C <sup>2</sup>	P <sup>2</sup>	X	X	X	X
Forest Practices	X	P	P	P	X	X	X
<b>Industrial Uses:</b>							
Water-oriented	P	P <sup>9</sup>	X	X	X	P <sup>3</sup>	X
Nonwater-oriented	C	X	X	X	X	X	X
Log Storage	P	P <sup>9</sup>	X	X	X	P <sup>5</sup>	P <sup>5</sup>
Log Rafting	P	P <sup>9</sup>	X	X	X	P <sup>5</sup>	P <sup>5</sup>
<b>Institutional Uses:</b>							
Water-oriented	P	P	P	P	P	P <sup>3</sup>	C <sup>3</sup>
Nonwater-oriented	P <sup>2</sup>	P	P <sup>2</sup>	X	C	X	X
Mining	X	X	X	X	X	X	X
<b>Parking:</b>							
Primary Use	X	X	X	X	X	X	X
Accessory Use	P	P	P	X	P	X	X

<b>Legend:</b> P - Permitted X - Prohibited C - Conditional Use							
<b>Shoreline Designation</b>	<b>Urban Industrial</b>	<b>Urban Multi-purpose</b>	<b>Urban - Goldsborough Creek</b>	<b>Conservancy</b>	<b>Residential</b>	<b>Aquatic - Harbor<sup>6</sup></b>	<b>Aquatic - Conservancy<sup>6</sup></b>
<b>Recreational Uses:</b>							
Water-dependent	C	P	P	P	P	P <sup>3</sup>	P <sup>3</sup>
Water-related/enjoyment (trails, accessory buildings)	C	P	P	P	P	X	X
Nonwater-oriented (sports fields)	X	P	P	X	P	X	X
Residential Development	X	P	P	P	P	X	X
Signs	P	P	P	X <sup>4</sup>	X <sup>4</sup>	X <sup>4</sup>	X <sup>4</sup>
<b>Transportation Uses:</b>							
Water-dependent	P	P	P	C	P	P <sup>11</sup>	P <sup>11</sup>
Non-water dependent	P	P	P	C	P	C <sup>11</sup>	C <sup>11</sup>
Railroads	P	P	P	C	C	C <sup>11</sup>	C <sup>11</sup>
Utilities	P	P	P	C	C	C	C
Unclassified Uses	C	C	C	C	C	C	C

**NOTES:**

1. Conditioned upon the requirement that operations do not significantly conflict with navigation, boating or industrial activities.
2. May be permitted as part of a mixed-use project including water-dependent uses, on sites where navigability is severely limited, or in areas physically separated from the shoreline by another property or public right-of-way.
3. Water-dependent uses may be permitted provided the City finds that the specific function (e.g., log loading, ship docking, view platform) cannot be located on land.
4. Directional signs and navigational aids may be permitted.
5. Conducted at a depth such that the log rafts will not ground out at extreme low water (approximately -4.5 feet).
6. The use may be allowed in the Aquatic designation only if permitted or conditionally permitted in the adjacent upland designation.
7. Maintenance, repair and replacement of existing boathouses are permitted. No new overwater boathouses are permitted. Up to 10 boathouses may be converted to a shellfish nursery use within the Port of Shelton Marina as a permitted use in compliance with Section 6.5, Aquaculture. No additional boathouses or boat slips may be converted. Additional uses of this nature would require that a permit request be submitted for consideration of a separate commercial dock/float at the facility to accommodate the increased demand.
8. Only public boat launches are permitted.
9. Industrial uses are not allowed within the shoreline jurisdiction of Goose Lake.
10. Only permitted within the shoreline jurisdiction of Island Lake and Goose Lake. On Goose Lake docks, piers and mooring buoys must be public.

11. Roads, railroads, and other transportation facilities are prohibited over water, EXCEPT to serve water-dependent or public uses consistent with this Program when inland alternatives are unfeasible or for water crossings.

**Table 6-2. Shoreline Modification Matrix**

<b>Legend:</b> P - Permitted X - Prohibited C - Conditional Use	<b>Urban Industrial</b>	<b>Urban Multi-purpose</b>	<b>Urban - Goldsborough Creek</b>	<b>Conservancy</b>	<b>Residential</b>	<b>Aquatic - Harbor</b>	<b>Aquatic - Conservancy</b>
<b>Shoreline Designation</b>							
Dredging, Maintenance Dredging, and Dredge Material Disposal	P/C	P	P	X	X	P	P
Dredging and Disposal as part of Ecological Restoration/Enhancement	P	P	P	P	P	P	P
<b>Flood Control Works and In-stream Structures</b>							
Dikes & Levees	P	C	C	X	P	C	C
In-stream Structures	P	P	C	C	P	P	C
Shoreline Restoration and Enhancement	P	P	P	P	P	P	P
<b>Shoreline Stabilization:</b>							
Bioengineered Shoreline Stabilization	P	P	P	P	P	P	P
Structural Shoreline Stabilization	P	P	P	X	P	P	X
Breakwaters, Jetties, Weirs, Groins	P	C	X	X	X	C	X

## 6.3 Buffer and Bulk Dimensional Standards

### Table

Buffers and dimensional standards are required for new developments within the City's shoreline jurisdiction. Table 6-3 establishes buffer, building setbacks, lot coverage, and building height standards by shoreline environment designation.

**Table 6-3. Buffer and Bulk Dimensional Standards**

SEDs	Critical Area Buffer <sup>1, 2</sup>	Building Setback <sup>3</sup>	Maximum Impervious Surface <sup>4</sup>	Maximum Structure Height
Urban Industrial	(See SMC 21.64.320)	10 feet (See 21.64.086)	Per zoning standards	50 feet. Conditional Use Permit for structures proposed over 50 feet in height.
Urban Multi-purpose	(See SMC 21.64.320)	10 feet (See 21.64.086)	30% for Goose Lake <sup>5</sup> Per zoning standards for all other areas	50 feet. Conditional Use Permit for structures over 50 feet in height.
Urban Goldsborough Creek	(See SMC 21.64.320)	10 feet (See 21.64.086)	50%	35 ft
Conservancy	(See SMC 21.64.320)	10 feet (See 21.64.086)	10%	35 ft
Residential	(See SMC 21.64.320)	10 feet (See 21.64.086)	50%	35 ft
Aquatic Harbor	N/A	N/A	N/A	N/A
Aquatic Conservancy	N/A	N/A	N/A	N/A

<sup>1</sup>Alternative buffers may be allowed pursuant to SMC 21.64.320C. Buffer averaging may be allowed pursuant to SMC 21.64.325. Buffers may be increased pursuant to SMC 21.64.326.

<sup>2</sup>Certain actions and activities are allowed in the required shoreline buffer pursuant to SMC 21.64.071 and SMC 21.64.330.

<sup>3</sup>Certain facilities and uses are allowed in the building setback pursuant to SMC 21.64.086.

<sup>4</sup>The impervious surface area is calculated by dividing the total area of impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction and then multiplied by one-hundred (100) to convert to percentage points.

<sup>5</sup>Planned unit developments may exceed the 30 percent maximum impervious surface standard on individual lots, provided the entire Goose Lake shoreline jurisdiction does not exceed 30 percent in total impervious surfaces.

## 6.4 Agriculture

### 6.4.1 Applicability

Agriculture activities are agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (WAC 173-26-020). Christmas tree farming (silviculture) policies and regulations are covered under Forest Practices in Section 6.9.

Agricultural activities associated with residential uses and for the primary purpose of household consumption are subject to the underlying zoning regulations.

In accordance with RCW 90.58.065, this Master Program does not regulate existing or ongoing agricultural activities occurring on agricultural lands. However, new agricultural use and development on lands not meeting the definition of agricultural land, conversions of agricultural lands to other uses, and development not meeting the definition of agricultural activities must comply with this Master Program.

### 6.4.2 Regulations

1. Agricultural development shall conform to applicable state and federal policies and regulations including but not limited to the following:
  - a. Erosion control guidelines and standards of the Soil Conservation Service and U.S. Department of Agriculture;
  - b. Feedlot control guidelines of the U.S. Environmental Protection Agency; (see "Guidelines for Handling Livestock Wastes for Western Washington", distributed by the Washington State Department of Ecology in conjunction with the United States Environmental Protection Agency for the Cooperative Extension Service);
  - c. Washington Pesticide Application Act (Chapter 17.21 RCW);
  - d. Washington Pesticide Act (Chapter 15.57 RCW);

- g. State Board of Health Water Supply Rules and Regulations; and
- 2. In accordance with RCW 90.58.065, this Program shall not restrict existing or ongoing agricultural activities occurring on agricultural lands.
- 3. New agricultural use and development on lands not meeting the definition of agricultural land may be allowed when it complies with this Program and all of the following regulations:
  - a. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
  - b. Streambanks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
    - i. Suitable bridges, culverts or ramps for stock crossing;
    - ii. Ample supplies of clean water in tanks on dry land for stock watering; and
    - iii. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.
  - c. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.
  - d. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. However, composted organic wastes may be used for fertilization or soil improvement.
  - e. A buffer of naturally occurring or planted native vegetation shall be maintained between the shoreline and areas used for crops or intensive grazing. The width of the buffer on marine, river and lake shorelines shall correspond to the standards of the Program and as required by Chapter 21.64 (Critical Areas) of the Shelton Municipal Code.
  - f. Conversion of agricultural lands to other uses shall comply with the provisions of this Program for the proposed new use.
  - g. Construction of new structures including residences, barns, sheds and similar buildings on agricultural lands shall conform to the requirements of this Program. Such structures shall adhere to the buffer and setback requirements, height limits and other regulations established by this Program.

## 6.5 Aquaculture

### 6.5.1 Applicability

Aquaculture is the farming or culturing of fish, shellfish or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Activities include the hatching, cultivating, planting, feeding, raising and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas. Cultivation methods include but are not limited to fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the culture of clams and oysters on tidelands and subtidal areas. Aquaculture is a preferred shoreline use when operations do not damage the environment and are consistent with pollution control requirements (WAC 173-26-241(3)b).

### 6.5.2 Regulations - General

1. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals. To minimize redundancy, applicants may rely on documentation that has been submitted to other permitting agencies where applicable. Applications may include the following:
  - a. Copies of permit applications and/or studies required by state and federal agencies;
  - b. Species to be reared;
  - c. Anticipated harvest cycles and potential plans for future expansion or change in species grown or harvest practices;
  - d. Aquaculture method(s), including number, types and dimensions of structures, apparatus and/or equipment;
  - e. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances, and their predicted impacts;
  - f. Manpower/employment necessary for the project;
  - g. Harvest and processing location, method and timing;
  - h. Anticipated levels of noise, light and odor and plans for minimizing their impacts;
  - i. Location and plans for any shoreland activities, including loading, unloading and product processing;

- j. Amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility;
  - k. Methods of traffic control, waste disposal and predator control;
  - l. Environmental assessment, including best available background information on water quality, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, and probable impacts on water quality, biota, currents, littoral drift, and any existing shoreline or water uses. Further baseline studies may be required depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline monitoring shall be at the applicant's expense unless otherwise provided for;
  - m. Method of disposal of dead fish to control noxious odors; and
  - n. Other pertinent information deemed necessary by the City such as noise generation and visual impact.
2. Permit applications shall also identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using. Such materials shall not be used until approval is obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fisheries and Wildlife, and Agriculture, as required, and proof thereof is submitted to the City. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and application.
  3. Permit applications shall identify any noise generation associated with the project and also the amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility.
  4. The location of floating and submerged aquaculture structures shall not significantly conflict with navigation and other water-dependent uses. Floating structures shall remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body.
  5. Subtidal, intertidal, floating, and upland structures and apparatus associated with aquaculture use shall be located, designed and maintained to avoid adverse effects on ecological functions and processes.
  6. The City shall consider the location of proposed aquaculture facilities/farms to prevent adverse cumulative effects on ecological

functions and processes and adjoining land uses. The City shall determine what constitutes acceptable placement and concentration of commercial aquaculture based on the specific characteristics of the water body, reach, drift cell, and uplands in the vicinity of the farm/facility. In making its determination, the City may solicit comments from federal agencies such as U.S. Fish and Wildlife Service, State agencies such as the Washington Department of Fish and Wildlife, and affected tribes.

7. Aquaculture use and development shall be sited so that shading and other adverse impacts to existing eelgrass, kelp, or native shellfish beds are avoided, minimized, and mitigated consistent with Section 5.4.
8. Aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, that minimize disturbance to substrate.
9. No aquatic organism shall be introduced into City waters without prior written approval of the Washington Department of Fish and Wildlife for the specific organism proposed for introduction, including import and transfer permits under WAC 220-76-100 and WAC 220-72-076. The required approval shall be submitted in writing to the Shoreline Administrator prior to the introduction or the granting of the permit, whichever comes first. Unless otherwise provided in the shoreline permit issued by the City, the repeated introduction of an approved organism in the same location shall require approval by the City only at the time the permit is issued. Introduction for purposes of this section shall mean the placing of any aquatic organism in any area within the waters of the City regardless of whether it is a native or resident organism and regardless of where it is being transferred from.
10. Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall minimize detrimental impacts to the shoreline.
11. Aquacultural structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner.
12. Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to or destruction of such an aquacultural enterprise shall be grounds for the denial of that use.
13. Operational monitoring may be required if and to the extent that it is necessary to determine, ensure or confirm compliance with predicted or

required performance. Such monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant's (operator's) expense.

14. Processing of any aquacultural product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials or organisms, shall not occur in or over the water after harvest, unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by, in addition to these provisions, the policies and regulations of other applicable sections of this Master Program, in particular, provisions addressing commercial and industrial uses.
15. Aquacultural wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
16. Hatchery and other aquaculture operations shall be required to maintain a minimum fifty (50) foot wide vegetated buffer zone along the affected streamway or the buffer required by Table 6.3, whichever is larger, PROVIDED that clearing of vegetation shall be permitted for essential water access points.
17. For aquacultural projects using overwater structures, storage of necessary tools and apparatus seaward of the ordinary high water mark shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock; provided that in locations where the visual impact of the proposed aquaculture structures will be minimal, the City based upon written findings and without requiring a variance may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark.
18. Aquaculture use and development shall employ nonlethal, nonharmful measures to control birds and mammals. Control methods shall comply with existing federal and state regulations.
19. Fish net-pens shall meet, as a minimum, state approved administrative guidelines for the management of net-pen cultures; where any conflict in requirements arises the more stringent requirement shall prevail.
20. Aquacultural proposals that include net pens or rafts shall satisfy the environmental and aesthetic concerns expressed in this Master Program

shall be addressed. The burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of this Master Program.

21. For floating culture facilities the City shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's *Aquacultural Siting Study* (1986). Such analysis may be prepared by the applicant, without professional assistance, provided that it is competently prepared. The analysis shall demonstrate that adverse impacts on the character of nearby areas are effectively mitigated.

### 6.5.3 Regulations - Commercial Geoduck Aquaculture

1. Commercial harvesting of geoduck shall be permitted subject to the Washington State Departments of Natural Resources and Fish and Wildlife contract and controlling regulations, and state and county public health requirements, as applicable.
  - a. A conditional use permit is required for new commercial geoduck aquaculture and the conversion of an existing nongeoduck aquaculture operation to geoduck aquaculture.
  - b. All subsequent cycles of planting and harvest shall not require a new conditional use permit.
  - c. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline permitting jurisdiction.
  - d. In addition to complying with the requirements of Chapter 173-27 WAC, the application must contain:
    - i. A narrative description and timeline for all anticipated geoduck planting and harvesting activities. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.
    - ii. A baseline ecological survey of the proposed site to allow consideration of the ecological effects associated with the proposal. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.

- iii. Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC-173-26-201 (2)(e).
- iv. Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- e. On-site work is allowed during low tides, which may occur at night or on weekends. Measures to reduce impacts, from such sources as noise from equipment and glare from lighting, to adjacent existing uses shall be identified.
- f. All commercial geoduck aquaculture operations authorized by a conditional use permit shall be reviewed by the City after the first year of operation to confirm compliance with the terms and conditions of the permit. In reviewing the permit, the City shall solicit comments from all parties of record to the approved conditional use permit.
- g. Conditional use permits shall be reviewed using the best scientific and technical information available.
- h. Best management practices shall be employed to accomplish the intent of the limits and conditions.
- i. In order to avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, the following should be addressed:
  - i. The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.
  - ii. Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.
  - iii. Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.
  - iv. Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.
  - v. Installation of property corner markers that are visible at low tide during planting and harvesting.
  - vi. Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.

- vii. Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed and disposed of at an approved upland location as soon as they are no longer needed for predator exclusion.
- viii. Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.
- ix. Number of barges or vessels that can be moored or beached at the site as well as duration limits.
- x. Public rights to navigation over the surface of the water.
- xi. Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.
- j. Where the site contains existing public access to publicly owned lands, the City shall consider recommendations from the Department of Natural Resources regarding protection of the existing public access.

## 6.6 Boating Facilities

### 6.6.1 Applicability

Boating facilities include marinas, both backshore and foreshore, dry storage and wet moorage types, liveboards, boat launches, covered moorage, boathouses, mooring buoys, marine travel lifts, floats, piers and docks. Piers and docks are structures which abut the shoreline and can be used for public access and/or as a landing or moorage place for commercial and/or pleasure craft. Piers are built on fixed platforms above the water, while docks float on the water. Piers and docks can be utilized for commercial, industrial or recreational purposes and often serve several uses.

Uses and activities associated with boating facilities that are identified separately in Chapters 5 and 6 (for example, Bulkheads; Breakwaters, Commercial Development, Industrial Development, Jetties and Groins; Dredging; Fill; and Utilities) are subject to the policies and regulations established for those uses as well as the boating facility provisions established in this section.

A marina is a water-dependent use that consists of a system of piers, buoys, or floats providing permanent or long-term moorage for ten (10) or more vessels. Community moorage facilities, yacht club facilities, and camp or resort moorage areas providing moorage for ten (10) or more vessels shall be reviewed as marinas under this Master Program. Uses and developments commonly associated with

marinas include boat launch facilities and businesses that provide services and supplies for small commercial and/or pleasure craft.

The following regulations apply to the construction, expansion and maintenance of all boating facilities and their accessory uses unless otherwise stated.

**Note: The Department of Natural Resources should be contacted for all projects involving the use of state-owned aquatic lands.**

## 6.6.2 Regulations - General

1. All boating facility development and/or renovations shall comply with all other applicable state agency policies and regulations.
2. All facilities shall be constructed so as not to interfere with or impair the navigational use of surface water.
3. New boating facilities shall be designed so they will be aesthetically compatible with or will enhance existing shoreline features and uses.
4. The shoreline shall be stabilized both above and below the water's edge both during and after all boating facility construction.
5. New overwater parking facilities shall be prohibited.
6. Short-term loading areas may be located at ramps or near berthing areas. For new facilities, long-term parking and paved storage areas shall be located as far from the OHWM as is feasible.
7. To the maximum extent possible, new boating facilities and accessory uses shall share parking facilities, with boating facility usage given preference.

## 6.6.3 Regulations - Boathouses and Covered Moorage

1. Legally permitted covered moorage and boathouses that were in lawful existence as of December 1, 2013, may continue subject to the requirements of this Master Program and the following restrictions:
  - a. Existing covered moorage and boathouses shall not increase overwater coverage unless part of a comprehensive review of a public marina plan and ensures no net loss of shoreline ecological functions;
  - b. All work and materials shall be performed using best management practices;
  - c. Existing structures may be repaired;

- d. Walls and fences for covered moorage shall be prohibited above deck or float level, except that handrails which are open in nature and not higher than forty-two (42) inches above the deck or float may be permitted; and
  - e. Existing covered moorage and boathouses may be relocated and reconfigured within an approved marina if the relocation and reconfiguration results in an improvement to shoreline ecological functions.
  - f. Up to 10 boathouses may be converted to a shellfish nursery use within the Port of Shelton Marina as a permitted use in compliance with Section 6.5, Aquaculture. No additional boathouses or boat slips may be converted. Additional uses of this nature would require that a permit request be submitted for consideration of a separate commercial dock/float at the facility to accommodate the increased demand.
2. New covered moorage for boat storage and new overwater boat houses shall be prohibited.
  3. The restrictions in Section 6.6.3, Regulation #2 shall not apply to overwater structures housing water-dependent emergency response equipment for public agency use to protect people, property, and the environment in and adjacent to shoreline jurisdiction. However, such new, remodeled, rebuilt, or relocated structures shall be constructed to allow sixty percent (60%) light penetration over sixty percent (60%) of the structure whether enclosed or not.
  4. Commercial covered moorage facilities may be permitted only where boat construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate upland sites are not feasible. When permitted, commercial covered moorage facilities must be constructed to allow sixty percent (60%) light penetration over sixty percent (60%) of the structure, whether enclosed or not.

## 6.6.4 Regulations - Boat Launch Ramps

1. Preferred ramp designs, in order of priority, are:
  - a. Open grid designs with minimum coverage of beach substrate;
  - b. Seasonal ramps that can be removed and stored upland; and
  - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.

- d. Other ramp designs may be considered provided the City of Shelton finds the preferred ramp designs are infeasible and the proposed ramp design ensures no net loss of ecological functions as supported by a Critical Areas Report.
2. Ramps shall be placed and maintained near flush with the foreshore slope, where feasible.
3. In addition to requirements of this section, SMC 21.64.330(F) and (I) shall apply, where feasible.

## 6.6.5 Regulations - Marinas

1. The City shall require and use the following information in its review of marina proposals:
  - a. Existing natural shoreline and backshore features and uses, and water depth;
  - b. Water processes and flushing characteristics, volume, rates and frequencies;
  - c. Biological resources and habitats for the backshore, foreshore and aquatic environments;
  - d. Area of surface waters appropriated, and leased areas;
  - e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; type and extent of shore defense works or shoreline stabilization and flood protection necessary;
  - f. Impact upon existing and created demand for shoreline and water uses including public access and recreation and views;
  - g. The regional need for additional facilities; and
  - h. The design of the facilities, including sewage disposal, water quality controls, provisions for the prevention and control of fuel spillage.

### 6.6.5.1 *Location*

1. Deteriorated urban waterfront areas in need of restoration and where channel depths are such that commercial activity is no longer feasible shall be given priority consideration for potential marina sites.
2. Boats shall be dry stored whenever possible to retain shoreline for other water-dependent uses.
3. Marinas shall take all reasonable steps to locate in areas where fill is not required and should be located in water of sufficient depth such that dredging is not required. Where these modifications are unavoidable,

marinas shall locate on stable shorelines where water depths avoid and minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, dredge material disposal, filling, and channel maintenance activities.

4. Marinas shall be located so as not to adversely affect flood channel capacity or otherwise create a flood hazard.
5. Marinas or launch ramps shall not be permitted on the following marine shores unless it can be demonstrated that interference with littoral drift and/or degradation or loss of shoreline ecological functions and processes, especially those vital to maintenance of nearshore habitat, will not occur. Such areas include:
  - a. Feeder bluffs; and
  - b. High-energy input driftways.
6. Marinas or launch ramps shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:
  - a. Marshes, estuaries and other wetlands;
  - b. Kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sandlance); and
  - c. Other critical saltwater habitats.
7. Marinas or launch ramps may be permitted on low-erosion rate marine feeder bluffs or on low-energy input erosional driftways if the proposal is otherwise consistent with this Program.
8. Where marinas are permitted, the following conditions shall be met:
  - a. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions or processes or shore features; and
  - b. Solid structures that block fish passage shall not be permitted to extend without openings from the shore to zero tide level (Mean Lower Low Water, or MLLW), but shall stop short to allow sufficient shallow fringe water for fish passage.
9. Marinas shall be designed to allow the maximum possible circulation and flushing of all enclosed water areas.

10. New or expanding marinas with dredged entrances that adversely affect littoral drift to the detriment of other shores and their users shall be required to periodically replenish such shores with the requisite quantity and quality of aggregate as determined by professional coastal geologic engineering studies.

#### **6.6.5.2 *Design, Renovation, Expansion***

1. The marina design shall minimize interference with existing shore forms and natural coastal processes.
2. Public access, both visual and physical, shall be an integral part of all marina development. Marinas shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous and public use of the surface waters below the ordinary high water mark is not unduly impaired.
3. Marinas shall have adequate facilities and post the operational procedures for fuel and sewage handling and storage to prevent and minimize accidental spillage.
4. Marinas shall have facilities, equipment and posted procedures for the containment, recovery and mitigation for spilled petroleum, sewage and toxic products and debris from maintenance and repair.
5. Marina operators shall post signs, containing the following information, where they are readily visible to all marina users:
  - a. Regulations pertaining to handling and disposal of waste, including grey water, sewage and toxic materials;
  - b. Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;
  - c. Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters; and
  - d. Rules and best management practices for boat maintenance and repairs on site.

#### **6.6.5.3 *Utilities***

1. New or expanded marinas shall have accessible boat sewage disposal systems or services available to all marina users. Such systems or services shall be conveniently located for all boats.

2. The marina shall provide facilities for the adequate collection and dumping of marina-originated materials including but not limited to sewage, solid waste and petroleum waste.
3. Adequate and satisfactory means for handling accidental fuel and chemical spills must be provided.
4. All marinas shall provide restrooms for all boaters' use. The restrooms shall be identified by signs and shall be accessible to tenants 24 hours a day and open to day users those hours of operation that boating services are open to the public such as gas dock, ramp, or hoist.

#### 6.6.5.4 *Liveaboards*

1. Liveaboards (moored boats with residents living aboard) shall be limited to no more than ten percent (10%) of the total number of moorage slips, excluding persons in transit.
2. Any marina with liveboard vessels shall require:
  - a. That all liveboard vessels are connected to utilities that provide sewage conveyance to an approved disposal facility; or
  - b. That marina operators or liveaboards are contracted with a private pump-out service company that has the capacity to adequately dispose of liveboard vessel sewage; or
  - c. That a portable pump-out facility is readily available to liveboard vessel owners;
  - d. That all liveboard vessels shall have access to utilities that provide potable water;
  - e. That liveboard vessels are of the cruising type, and are kept in good repair and seaworthy condition.
3. Marinas with liveboard vessels shall only be permitted where compatible with the surrounding area and where adequate sanitary sewer facilities exist within the marina and on the liveboard vessel.

### 6.6.6 Regulations - Piers, Docks, Floats, and Buoys

#### 6.6.6.1 *General*

1. Proposals for floats, buoys, piers or docks shall include at a minimum the following information:

- a. Description of the proposed structure, including its size, location, design and any shoreline stabilization or other modification required by the project;
  - b. Ownership of tidelands, shorelands and/or bedlands;
  - c. Proposed location of piers, floats, buoys or docks relative to property lines and OHWM;
  - d. Location width, height and length of piers or docks on adjacent properties within three hundred (300) feet; and
  - e. Cost estimate.
2. Piers, floats, buoys, and docks shall not significantly interfere with use of navigable waters.
  3. In addition to requirements of this section, SMC 21.64.330(H) shall apply.

#### **6.6.6.2 *General Design and Construction Standards***

1. Pilings must be structurally sound prior to placement in the water.
2. Materials for any portions of the dock, pier, float, framing, or decking that come in contact with water shall be approved by applicable state agencies for use in water.
3. Pilings employed in piers docks, or floats shall have a minimum vertical clearance of two (2) feet above extreme high water.
4. All docks shall include stops that keep the floats off the bottom of tidelands at low tide or water level.
5. Recreational floats shall be located as close to the shore as possible and still accommodate intended use.

#### **6.6.6.3 *Accessory to Residential, Hotel, and Motel Use***

1. Mooring buoys shall be used instead of docks and piers whenever feasible.
2. Joint-use docks or piers are encouraged in-lieu of individual moorage facilities.
3. New docks or piers associated with single-family residences are allowed only as joint-use unless the applicant demonstrates that joint-use is not feasible.
4. Piers and docks associated with single-family residences are defined as water-dependent uses provided they are designed and intended as a facility for access to watercraft.

5. All hotels, motels, and multi-family residences proposing to provide moorage facilities shall be required to construct a single, community moorage facility provided that the City may authorize more than one community moorage facility if a single facility would be inappropriate or undesirable given the specific environmental conditions of the site.
6. Proposals for community piers and docks shall demonstrate and document that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties.
7. Single-user docks/piers/floats may be located within side yard setbacks for residential development (both onshore and offshore); provided that a joint-use dock/pier may be located adjacent to or upon a shared side property line upon recording of an agreement by the affected property owners with the Mason County Assessors Office.
8. To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following dimensional standards shall apply:
  - a. The width of docks, piers, floats and lifts shall be the minimum necessary, and shall be authorized in the permitting documents approved by Washington Department of Fish and Wildlife and U.S. Army Corps of Engineers.
  - b. The length of docks and piers in the marine environment shall be the minimum necessary to prevent the grounding of floats and boats on the substrate during low tide. In fresh water, the length of new residential docks and piers shall be limited to the minimum necessary and shall not exceed the average length of the dock or pier on each adjacent parcel (or closest parcel with a dock/pier if the adjacent parcel does not have a dock/pier).
  - c. The applicant shall consider materials and methods of dock construction that increase light passage and limit overwater shading. This may be accomplished through grated decks or space between solid decking or other means.

#### **6.6.6.4 Commercial/Industrial Facilities**

These standards apply to piers and docks intended for any commercial or industrial use other than commercial moorage of boats in marinas.

1. Piers and docks shall be permitted for water-dependent and for multiple-use facilities if the majority use is water-dependent.
2. The length, width and height of nonresidential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use.

3. Materials for any portions of a dock, pier, float, framing, or decking that come in contact with water shall be approved by applicable state agencies for use in water.
4. Joint-use piers shall be preferred for commercial and industrial developments which are in close proximity to one another.
5. Facilities and procedures for receiving, storing, dispensing and disposing of oil and other toxic products shall be designed and flood-proofed to insure that such oil and other toxic products are not introduced into the water body. Spill cleanup facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.
6. Bulk storage for gasoline, oil and other petroleum products for any use or purpose is **prohibited** on piers and docks. Bulk storage means nonportable storage in fixed tanks.
7. Storage for boat fueling facilities shall be located landward of the OHWM and meet the applicable policies and regulations for utilities (accessory and primary), commercial and industrial development.

#### *6.6.6.5 Repair, Replacement or Expansion*

1. Existing overwater structures may be repaired and/or replaced in the same location as the existing structure.
2. Repair or replacement of docks shall, at a minimum, require as much light penetration to water as the existing facility. The new design shall maintain, and to the extent practicable, increase the amount of ambient light beneath the structure.
3. Materials that come in contact with the water shall be approved by applicable state agencies for use in water.
4. Expansion of existing overwater structures shall follow the guidelines for newly constructed facilities for the expanded portion.
5. Other repairs not described in this section to existing legally established overwater structures are considered minor and may be permitted consistent with all applicable regulations.

## **6.7 Commercial Uses**

## 6.7.1 Applicability

Commercial development includes uses that are involved in wholesale, retail, service and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices and private or public indoor recreation facilities. Excluded from this category are residential subdivisions, boating uses and industry.

Uses and activities associated with commercial development that are identified as separate use activities in this Program are subject to those regulations in addition to the standards for commercial development established herein.

## 6.7.2 Regulations

1. The City shall require and utilize the following information in its review of commercial development proposals:
  - a. Nature of the commercial activity (e.g., water-dependent, water-related, enjoyment, nonwater-oriented, mixed-use) including a breakdown of specific components;
  - b. Need for shoreline location;
  - c. Special considerations for enhancing the relationship of the activity to the shoreline;
  - d. Provisions for public visual and physical access to the shoreline;
  - e. Provisions to ensure that the development will not cause adverse negative environmental impacts; and
  - f. For mixed-use proposals, describe the type and amount of water-oriented and nonwater-oriented uses; present site and building designs, including bulk considerations, proposed public access improvements, restoration or enhancement of environmental features, and other considerations that address the goals and policies of the SMP.
2. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the City determines that the proposed design, layout and operation of the use/development meet the definition and intent of water-dependent, water-related or water-enjoyment.
3. New nonwater-oriented commercial uses or development are prohibited unless they meet one of the following:
  - a. The use is part of a mixed-use project or facility that supports water-dependent uses and provides a significant public benefit with respect to the public access and restoration goals of this Program; or

- b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the public access and restoration goals of this Program; or
  - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way, or existing use, and provides a significant public benefit with respect to the public access and restoration goals of this Program. For the purposes of this Program, public access trails and facilities do not constitute a separation.
4. Nonwater-oriented commercial developments shall not usurp or displace land currently occupied by a water-oriented use or interfere with adjacent water-oriented uses.
5. Commercial development shall be prohibited in marshes, bogs, and swamps.
6. Water-dependent, water-related, and water-enjoyment commercial development is allowed overwater in the Aquatic Harbor designation provided water-related or water-enjoyment commercial developments are located in existing overwater structures or where they are auxiliary to and necessary in support of water-dependent uses.
7. Commercial development shall be designed and maintained in a neat, orderly and environmentally compatible manner, consistent with the character and features of the surrounding area. To this end, the City may adjust the project dimensions and setbacks, and/or prescribe operation intensity and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.
8. Water-enjoyment and water-related commercial uses shall provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. Private water-dependent uses may be required to provide public access in accordance with section 5.12 Regulation #1(e) of this Master Program.

## 6.8 Forest Practices

### 6.8.1 Applicability

Forest practices are uses and activities relating to the growing, harvesting and limited processing of timber. This includes, but is not limited to, (1) site preparation and regeneration; (2) protection from insects, fire and disease; (3) silvicultural

practices such as thinning, fertilization and release from competing vegetation; and (4) harvesting. Forest practices do not include log storage. (See Section 6.9 on industrial uses.)

Timber harvesting and forest practices that do not meet the definition of development are regulated by the Washington State Forest Practices Act and the 1999 Forest and Fish Report. Such practices are not regulated by this Program except for selective commercial timber cutting on shorelines of statewide significance. Other activities associated with timber harvesting, such as filling, excavation, and building roads and structures that meet the definition of development, are regulated according to applicable sections of this Program and require shoreline substantial development permits or conditional use permits. Conversion of forest land to nonforestry uses (Class IV Conversion Forest Practices Permit) are also subject to this Program.

## 6.8.2 Regulations

1. Timber harvesting and forest practices activities regulated by the Washington State Forest Practices Act (RCW 76.09) and WAC 222 that do not meet the definition of development shall be conducted in accordance with the Forest Practices Act and the 1999 Forest and Fish Report, and any regulations adopted pursuant thereto. Such practices shall not be regulated by this Program and shall not require a shoreline permit, except for the following activities:
  - a. Selective commercial timber cutting on shorelines of statewide significance shall not exceed thirty percent (30%) of the merchantable trees in any ten (10) year period, as required by RCW 90.58.150. The City may allow exceptions to the thirty percent (30%) limit with a conditional use permit in accordance with WAC 173-26-241(3)(e).
  - b. Forest practices and/or roads to provide access on slopes that exceed thirty-five percent (35%) shall require a conditional use permit.
2. Tree cutting and timber harvest not regulated by the Forest Practices Act (RCW 76.09) and WAC 222 shall be regulated according to the general provisions (Chapter 5) and other applicable use-specific provisions (Chapter 6) of this Program and shall require a shoreline substantial development permit or conditional use permit, as specified in this Program.
3. Other activities associated with timber harvesting, such as filling, excavation, and building roads and structures, that meet the definition of development shall be regulated according to the general provisions (Chapter 5) and the other applicable use-specific provisions (Chapter 6) of this Program and shall require a shoreline substantial development permit or conditional use permit, as specified in this Program.

4. Conversion of forest land to nonforestry uses (Class IV Conversion Forest Practices Permit) shall be reviewed in accordance with the provisions for the proposed nonforestry use and the general provisions in Chapter 5 and shall be subject to any permit requirements associated with the nonforestry use.
5. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to nonforest uses shall have all local permits withheld for a period of six (6) years, as authorized by the Forest Practices Act. This moratorium shall run with the land and be duly noted in the public record. The conversion of land to nonforest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to nonforest uses, the owner shall:
  - a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the area in a manner approved by the City of Shelton in accordance with this Program. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Stabilization and protection of affected critical areas through drainage and erosion control measures shall be provided; and
  - b. Submit and have approved by the Shoreline Administrator a conversion harvest plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions that are intended to reduce impacts to the critical area.
6. In addition to requirements of this section, SMC 21.64.071(K) shall apply.

## 6.9 Industrial Uses

### 6.9.1 Applicability

Industry located along the waterfront includes port development, water-oriented and nonwater-oriented manufacturing, warehousing, processing, storage and similar activities. Ports are a specialized subcategory of general industrial uses.

Industrial developments include facilities for processing, manufacturing and storage of finished or semi-finished goods. Ports are public enterprises providing services and facilities for commerce, transportation and economic development. Included in ports and industry are such activities as container ship terminals, log storage, log

rafting, forest product manufacturing, petroleum storage, transport and storage, ship building, tug and barge operations, etc. Excluded from this category and covered under other sections of this Master Program are boating uses, mining (including on-site processing of raw materials), utilities, and transportation.

Shelton's waterfront provides unique opportunities for water-dependent and water-related industrial uses and development.

## 6.9.2 Regulations - General

1. Accessory development that does not require a shoreline location shall be located upland of the water-dependent portions of the development and setback from the OHWM per Table 6-3. This category includes but is not limited to parking, warehousing, open air storage, waste storage, utilities and land transportation development.
2. Plans made to mitigate significant adverse environmental impacts pursuant to the General Regulations found in Chapter 5 of this program shall be submitted by the applicant.
3. New water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, dredge material disposal and other harbor and channel maintenance activities. New nonwater-oriented industrial uses or development may be considered as a conditional use as outlined in Table 6-1 and must meet one of the following:
  - a. The use is part of a mixed-use project that supports water-oriented uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives; or
  - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the Shoreline Management Act's objectives; or
  - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by another property or public right-of-way.
4. At new or expanded port and/or industrial developments, the best available facilities, practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective cleanup of those spills that do occur.

### 6.9.3 Regulations - Design

1. The determinations of which lands are best suited for water-dependent/water-related industry shall be made on the basis of the following location criteria:
  - a. Channel access;
  - b. Rail access;
  - c. Major road access;
  - d. Size of land area;
  - e. Physical characteristics of site (e.g., grade, soil type, hydrology, etc.);
  - f. Size of ownership units;
  - g. Present use and projected growth patterns;
  - h. Environmental factors; and
  - i. Feasibility/market demand analysis of potential water-oriented uses.
2. Display and other exterior lighting shall be designed, shielded, and operated to minimize glare, avoid illuminating nearby properties and prevent hazards for public traffic.

### 6.9.4 Regulations - Log Booming, Rafting, and Storage

1. Log storage facilities and uses shall comply with all applicable local, state, and federal regulations, including stormwater management regulations, Hydraulic Project Approvals granted by the Washington State Department of Fish and Wildlife, and the Water Quality Certification requirements provided by the Washington State Department of Ecology.
2. New log storage facilities shall demonstrate use of best management practices to avoid significant adverse impact to critical saltwater habitats and fish and wildlife habitat conservation areas.
3. Log storage and log booming facilities shall be adequately maintained and repaired to prevent log escapement from the storage site.
4. New log rafting, log transfer to water or storage operations or existing log rafting, log transfer or storage operations pursuing a shoreline permit for substantial repair or reconstruction, are required to implement the following when feasible:

- a. Logs shall not be transferred to water, stored, or rafted where grounding on intertidal lands will occur during any portion of the tidal cycle. Tidelands which were leased for booming and rafting prior to January 1, 1980, are exempt from this provision.
- b. Easy let-down devices shall be provided for log transfer to water, to prevent the freefall dumping of logs into water.
- c. Bark and wood debris controls and disposal shall be implemented at log transfer to water operations, and log raft building areas. Accumulations of bark and wood debris on the land and docks around log transfer to water operations and upland storage sites shall be kept out of the water. After cleanup, any disposal shall be at an upland site where leachate will not enter surface or groundwaters.
- d. Where water depths will permit the floating of bundled logs, they shall be secured in bundles on land before being placed in the water. Bundles shall not be broken again except on land or at mill sites.

## 6.10 Institutional Uses

### 6.10.1 Applicability

Institutional uses include facilities for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, libraries, museums, community centers, government offices, and the relevant essential public facilities identified in WAC 365-196-550.

### 6.10.2 Regulations

1. Water-oriented institutional uses and developments are preferred.
2. Where allowed, nonwater-oriented institutional uses may be permitted provided that a significant public benefit such as public access and/or ecological restoration is provided.
3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure.
4. Where institutional uses are allowed as a conditional use, the following must be demonstrated:
  - a. A water-dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or due to the site's separation from the water;

- b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
- c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, or access to the shoreline.

## 6.11 Mining

### 6.11.1 Applicability

Mining is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Mining activities include in-water dredging activities related to mineral extraction. Mining does not include general manufacturing, such as the manufacture of molded or cast concrete or asphalt products, asphalt mixing operations, or concrete batching operations. (See Section 6.9 Industrial Uses for standards relating to these uses.)

### 6.11.2 Regulations

1. The excavation of sand, gravel, and other minerals is prohibited within the City's shoreline jurisdiction.
2. Impacts to shorelands and water bodies due to mining operations upland of shoreline jurisdiction shall be minimized to protect shoreline ecological functions.
3. Transport and storage of mined materials shall be considered an industrial use and be subject to "Industrial Use" regulations.

## 6.12 Parking

### 6.12.1 Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply **only** to parking that is accessory to a permitted shoreline use. Parking as a primary use is prohibited within shoreline jurisdiction.

### 6.12.2 Regulations

1. Parking as a primary use shall be prohibited.

2. Parking shall be prohibited over water, except for pre-existing parking areas serving water-dependent uses. Existing overwater parking areas shall not be expanded.
3. Parking in shoreline jurisdiction shall directly serve an authorized shoreline use.
4. Surface parking facilities shall be designed and landscaped to minimize visual impacts to adjacent shorelines and properties. At a minimum, the landscaping standards pursuant to SMC 20.60.150 (Parking lot landscaping and screening) shall be followed. .
5. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, EXCEPT when the parking facility is within or beneath the structure and screened, or in cases when an alternate orientation would have less adverse impact on shoreline ecological functions and processes.
6. Parking areas shall use best available technologies to control quantity and quality of surface water runoff such as low impact development.

## 6.13 Recreational Development

### 6.13.1 Applicability

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Recreational development provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual. (Also see Chapter 5, Section 5.12 for regulations affecting public access.) Commercial recreation shall also be consistent with the provisions for commercial development in Section 6.7 of this Master Program.

### 6.13.2 Regulations -- General

1. Local governments shall consult state and local health regulations which apply to recreational facilities when issuing shoreline permits (WAC 173-16-060-21(k)).

2. Valuable shoreline resources and fragile or unique areas, such as marshes, bogs, swamps, estuaries, wetlands and accretion beaches, shall be used only for passive use recreational activities.
3. All permanent substantial recreational structures and facilities shall be located outside officially mapped floodways, provided the City may grant administrative exceptions for nonintensive minor accessory uses (e.g., picnic tables, tennis courts, etc.).
4. New recreational uses, trails and developments should be located landward of the buffer required by Chapter 21.64 of the Shelton Municipal Code excepting that components of the recreational use or development that are water-dependent, water-related, or whose primary use is to provide shoreline access may be allowed within the shoreline buffer, provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations at the point of access and the entrance thereto.

### 6.13.3 Regulations -- Design

1. Recreational development shall achieve no net loss of ecological processes and functions and should be designed to be compatible with surrounding properties.
2. Recreational development shall be designed and constructed so as to not unnecessarily interfere with public use of shorelines.
3. Recreational uses and improvements shall encourage and include public access to shorelines.
4. In approving shoreline recreational developments, the City shall ensure that the developments maintain, enhance or restore desirable shoreline features including unique and fragile areas, scenic views and aesthetic values. To this end, the City may adjust and/or prescribe project dimensions, location of on-site project components, intensity of use, screening, parking requirements and setbacks, as deemed appropriate.
5. Recreational developments shall provide facilities for nonmotorized access to the shoreline such as bicycle and/or pedestrian paths.
6. Motorized vehicular access is prohibited on beaches, bars, spits, and streambeds, EXCEPT for boat launching and maintenance activities. Recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.

7. Proposals for developments shall include a landscape plan that utilizes native, self-sustaining vegetation. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of campsites, selected views or other permitted structures or facilities. (See Section 5.6.2 on Clearing, Grading, Fill and Excavation and Section 5.7 Vegetation Conservation.)
8. No recreational buildings or structures shall be built over water, EXCEPT for water-dependent and/or public access structures such as piers, docks, bridges, or viewing platforms.
9. Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal. Where sewage treatment facilities are not available, the appropriate reviewing authority shall limit the intensity of development to meet City, county and state on-site sewage disposal requirements.
10. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent or nearby private properties.
11. In addition to requirements of this section, SMC 21.64.330(C) shall apply.

## 6.14 Residential Development

### 6.14.1 Applicability

Residential development applies to the development of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities. Those developments are regulated under Section 6.7 Commercial Uses.

### 6.14.2 Regulations

1. House boats, floating homes, and other overwater residential structures are prohibited.
2. New residential lots created through land division may be allowed provided:
  - a. New lots shall be consistent with lot configuration requirements that are established by SMC Title 20, Zoning, as applicable;
  - b. Structural shore armoring or flood control structures will not be required to protect or create the land;

- c. The new lots will not require structural shoreline stabilization or flood control measures during the useful life of the development or one hundred (100) years, whichever is greater;
  - d. No improvements are proposed within the required shoreline buffer or critical area buffer, except as provided in SMC Chapter 21.64 Critical Area Protection;
  - e. Site work does not create significant erosion or landslide hazard or reduce slope stability;
  - f. There is sufficient buildable area above the one hundred (100) year flood zone level within each resultant parcel.
3. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.
  4. Stormwater drainage and treatment facilities shall be required for all development pursuant to SMC Chapter 13.02 Stormwater Management.
  5. Residential development plans submitted for approval shall contain provisions for protection of groundwater supplies, erosion control, landscaping and maintenance of the natural shoreline integrity and ecological functions.

## 6.15 Signs

### 6.15.1 Applicability

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

The provisions of this section do not apply to publicly owned signs where the purpose is safety, direction, or information.

Additional regulations are provided in the City of Shelton Sign Ordinance (Chapter 20.38 SMC). Where the regulations herein conflict with the City sign ordinance, the more stringent regulations shall apply.

### 6.15.2 Regulations

1. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.

2. Signs in the shoreline shall be designed and placed in a manner that does not interfere with the public's ability to access the shoreline and will not result in a net loss of shoreline ecological functions.
3. Overwater signs or signs on floats or pilings shall be related to water-dependent uses only.
4. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or water bodies.
5. No commercial or advertising signs shall be placed in a public access corridor.
6. The following types of signs are prohibited:
  - a. Signs which impair visual access in view corridors.
  - b. Off-premise detached outdoor advertising signs.
  - c. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.
  - d. Signs placed on trees, rocks, or other natural features.
7. Signs to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.

## 6.16 Transportation Uses

### 6.16.1 Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, and railroad facilities.

### 6.16.2 Regulations - General

1. Transportation facilities and services shall utilize existing transportation corridors whenever feasible, provided that facility additions and modifications will not adversely impact shoreline resources and are otherwise consistent with this Program. If expansion of the existing corridor will result in significant adverse impacts to shoreline ecological functions, then a less disruptive alternative shall be utilized.
2. Transportation and primary utilities shall be encouraged to make joint use of rights-of-way and to consolidate crossings of water bodies where impacts to the shoreline can be minimized by doing so.

3. In addition to requirements of this section, SMC 21.64.330(B) shall apply.

### 6.16.3 Regulations - Location and Design

1. Proposed transportation facilities are required to be planned, located, and designed in such a manner that routes will have the least possible adverse effect on unique or fragile shoreline features and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses and public access.
2. Major new highways, freeways and railways shall be located outside shoreline jurisdiction, EXCEPT where water crossing is required or no other feasible alternative exists. These roads shall cross shoreline areas and water bodies by the shortest, most direct route feasible unless such route would cause more damage to shoreline ecological functions and processes.
3. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site grading. Transportation facilities allowed to cross over water bodies, marshes, bogs and swamps shall utilize elevated, open pile or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris.
4. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible.
5. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.
6. All transportation facilities shall be designed, constructed and maintained to contain and control all debris, overburden, runoff, erosion and sediment generated from the affected areas.
7. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands, PROVIDED bridge piers may be permitted in a water body as a conditional use.
8. Transportation facilities are prohibited in:
  - a. Hazardous areas such as steep slopes or in areas with soils subject to severe erosion or landslide hazard;

- b. Front of feeder bluffs, over driftways, or on accretion shoreforms; or
  - c. Channel migration zones.
9. Roads, railroads and other transportation facilities are prohibited over water, EXCEPT to serve water-dependent or public uses consistent with this program when inland alternatives are unfeasible or for water crossings.
  10. Open pile bridges shall be the preferred water crossing structures in and adjacent to streams supporting salmon and steelhead.

#### **6.16.4 Regulations - Construction and Maintenance**

1. Overburden, debris and other waste materials from both construction and maintenance activities, including drainage ditch clearance, shall not be deposited into or sidecast on the shoreline side of roads or in water bodies, wetlands, estuaries, tidelands, accretion beaches and other unique natural areas. Such materials shall be deposited in stable locations where reentry and erosion into such areas is prevented.
2. All shoreline areas disturbed by facility construction and maintenance 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 by the agency or developer constructing or maintaining the road until established.

### **6.17 Utilities Uses**

#### **6.17.1 Applicability**

Utilities are services and facilities that produce, convey, store, or process power, oil, gas, natural gas, sewage, communications, water and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

#### **6.17.2 Regulations - General**

1. Applications for installation of utilities shall include the following:
  - a. Description of the proposed facilities;
  - b. Reason(s) why the utility requires a shoreline location;
  - c. Alternative locations considered and reasons for their elimination;

- d. Location of other utilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;
  - e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utilities' useful life;
  - f. Plans for control of erosion and turbidity during construction and operation; and
  - g. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.
2. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way where possible. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, provided such uses will not unduly interfere with utility operations or endanger public health and safety.
  3. Nonwater-oriented utility facilities shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible alternative option is available. This includes the following facilities, which shall only be authorized by conditional use permit:
    - a. Water system treatment plants;
    - b. Water reclamation plants;
    - c. Desalinization plants;
    - d. Wastewater treatment systems (lines, pump stations, treatment plants);
    - e. Electrical energy generating plants (except for in-stream structures), substations, lines and cables; and
    - f. Petroleum, gas and natural gas pipelines and facilities.
  4. Sewage treatment, water reclamation, and desalinization plants shall be located where they do not interfere with and are compatible with recreational, residential or other public uses of the water and shorelands.
  5. New solid waste disposal sites and facilities are prohibited. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. In those limited instances when permitted, automatic shut-off valves shall be provided by the project proponent on both sides of the water body, and pipe sleeves shall be used to facilitate repair without future encroachment on surface waters and

wetlands, unless more feasible or technically superior alternatives exist that provide equivalent protection, as deemed by the Shoreline Administrator.

6. In addition to requirements of this section, SMC 21.64.330(D) and (E) shall apply.

### 6.17.3 Regulations - Location and Design

1. New utility lines, including electricity, communications and fuel lines, shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or placing underground would result in greater adverse environmental impacts or public safety hazards. Furthermore, such lines shall utilize existing rights-of-way and corridors whenever possible. Existing aboveground lines shall be moved underground during normal replacement processes.
2. Underground utility lines shall be completely buried under the river bed in all river or stream crossings EXCEPT where such lines may be affixed to a bridge structure and EXCEPT for appropriate water or wastewater treatment plant intake pipes or outfalls.
3. 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.
4. Utilities that are not water-dependent shall be located outside shoreline buffers unless it is demonstrated that alternative locations and alternative technology are infeasible, or as allowed pursuant to SMC 21.64.330(D) and (E).
5. Permitted overwater utility crossings shall utilize pier or open pile techniques.
6. Utility development shall provide screening of facilities from water bodies and adjacent properties. Screening requirements shall be determined by the City on a case-by-case basis.

### 6.17.4 Regulations - Water Systems

1. Water system treatment plants should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Underground (or water) utility lines shall be completely buried under the riverbed in all river or stream crossings EXCEPT where such lines may be affixed to a bridge structure and EXCEPT for appropriate water or wastewater treatment plant intake pipes or outfalls.

3. Water intakes shall not be permitted near fish spawning, migratory, or rearing areas.

### 6.17.5 Regulations - Sewage System

1. Wastewater treatment systems should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Septic fields shall be located landward of all setbacks set by local, county, and state regulations.
3. All new shoreline development within Shelton City limits shall comply with on-site sewage disposal requirements pursuant to SMC Title 14 Sewers. Development within the Urban Growth Area shall comply with appropriate Health Department provisions for treatment of waste.

### 6.17.6 Regulations - Oil, Gas, and Natural Gas Transmission

1. Petroleum and gas pipelines should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Pipelines for oil, gas, water and other utilities shall:
  - a. Use the best available technology to protect health, safety, and the environment;
  - b. Be routed through sites that are already lacking vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;
  - c. Avoid critical aquatic habitat to the greatest extent feasible.
3. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow; be placed in a sleeve or conduit that allows replacement without need for additional excavation; and return grades to existing or better condition that provides for normal floodwater flow.

### 6.17.7 Regulations - Electrical Energy and Communication System

1. Electrical energy substations, lines and cables shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.

2. Cable crossings for telecommunications and power lines shall:
  - a. Use the best available technology to protect health, safety, and the environment;
  - b. Be routed through sites that are already free of vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;
  - c. Avoid critical aquatic habitat to the greatest extent feasible; and
  - d. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow; be placed in a sleeve or conduit that allows replacement without need for additional excavation; and return grades to existing or better condition that provides for normal floodwater flow.

## 6.17.8 Regulations - Power Generation Facility

1. Electrical energy generating plants shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Power generating facilities shall comply with all policies and regulations contained in this Master Program (see Section 6.19 Floodplain Management, Flood Control Works, and In-stream Structures) and shall require approval of a shoreline conditional use permit in all environment designations.

## 6.18 Dredging and Dredge Material Disposal

### 6.18.1 Applicability

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, lake or marine water body and associated wetlands. Dredging is normally done for specific purposes or uses such as construction or maintenance of canals, navigation channels, turning basins, harbors and marinas, and for installing pipelines or cables, for dike or drainage system repair and maintenance.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the byproducts of dredging.

## 6.18.2 Regulations - General

1. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts. Impacts which cannot be avoided should be mitigated in a manner that assures no net loss of ecological function.
2. New development shall be sited and designed to avoid, or if that is not possible, to minimize the need for new maintenance dredging.
3. Applications for shoreline dredging and dredge material disposal may be required to provide the following types of information:
  - a. Physical, chemical and biological assessment of the proposed dredged material applicable to the particular dredging site. Information needed will vary depending upon:
    - i. existing biological communities or resources in the area;
    - ii. the possibility of significant sediment contamination; and
    - iii. the suitability of the proposed dredge disposal site. Specific data to be considered include:
      1. Physical - Grain size, clay, silt, sand or gravel as determined by sieve analysis.
      2. Chemical - Including conventional parameters, metals, and organics.
      3. Biological - Bioassays useful in determining the suitability of dredged material for a selected disposal option.
  - b. Dredging volumes, methods, schedule, frequency, hours of operation and procedures;
  - c. Method of disposal, including the location, size, capacity and physical characteristics of the disposal site, transportation method and routes, hours of operation, schedule;
  - d. Location and stability of bedlands adjacent to proposed dredging area;
  - e. Hydraulic analyses, including tidal fluctuation, current flows, direction and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging projects, particularly in estuaries, in order to identify existing geohydraulic-hydraulic patterns and probable effects of dredging;
  - f. Assessment of water quality impacts; and



- a. For navigation or navigational access only when necessary for assuring safe and efficient accommodation of existing navigational uses and only when significant ecological impacts are minimized and mitigated; or
  - b. In conjunction with water-dependent use of water bodies or adjacent shorelands; or
  - c. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat; or
  - d. Environmental cleanup activities required under Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act; or
  - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or
  - f. Maintenance dredging for the purpose of restoring previously permitted or authorized hydraulic capacity of a stream or river. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or authorized locations, depths, and widths.
2. The City may permit dredging for flood management purposes only when the project proponent demonstrates that:
    - a. The dredging is a required component of a county and/or City-approved comprehensive flood management plan, or
    - b. The dredging has a long-term benefit to public health and safety and will not cause a net loss of ecological functions and processes.
  3. New nonwater-dependent development that would result in the need for new dredging shall be prohibited.
  4. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
  5. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material.
  6. New dredging activity is prohibited in the following locations:
    - a. In estuaries except by conditional use permit;
    - b. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered or irretrievably lost;

- c. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity, which result in the need for continual maintenance dredging; or
  - d. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish or wildlife.
7. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining material for landfill shall not be allowed except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must either be associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other habitat enhancement project.

#### 6.18.4 Regulations - Dredge Material Disposal

1. Disposal of dredged material may be accomplished at approved contained upland disposal sites.
2. Dredge disposal within river channel migration zones shall only be authorized when part of an approved shoreline restoration project, and requires a Conditional Use Permit.
3. Individual disposal operations shall comply with the Washington Department of Natural Resources leasing practices, Washington Department of Ecology Water Quality Certification process, Washington Department of Fish and Wildlife Hydraulic Project Approval, Mason County regulations for solid waste disposal, and the U.S. Army Corps of Engineers permit requirements.
4. Depositing dredge materials in water areas other than Puget Sound Dredged Disposal Analysis sites shall be allowed only by conditional use permit for one or more of the following reasons:
  - a. For wildlife habitat improvement;
  - b. To correct problems of material distribution adversely affecting fish and shellfish resources;
  - c. For permitted beach enhancement;
  - d. When the alternative of depositing material on land is demonstrated to be more detrimental to shoreline resources than depositing it in water areas; or
  - e. For the implementation of adopted regional interagency dredge material management plans or watershed management planning.

5. Disposal, if allowed in water, shall utilize techniques that cause the least dispersal and broadcast of materials unless specifically designed and approved as a dispersal site.
6. Use of dredge materials for beach enhancement shall be conducted so that:
  - a. Erosion or deposition downstream from the disposal site does not occur. Erosion of the dredged material shall not smother marsh or other shallow or nearshore productive areas.
  - b. To the extent possible, the volume and frequency of dredged material disposal maintains a stable beach profile. Dredged material shall be graded at a uniform slope and contoured to reduce cove and peninsula formation and to minimize stranding of juvenile fish.
7. When dredge material is deposited on land it shall be considered fill and subject to all applicable fill regulations.

## **6.19 Floodplain Management, Flood Control Works and In-stream Structures**

### **6.19.1 Applicability**

Floodplain management involves actions taken with the primary purpose of preventing or mitigating damage due to flooding. It can involve site design, land use controls and zoning to control development, either to reduce risks to human life and property or to prevent development from contributing to the severity of flooding. Floodplain management can also address the design of developments to reduce flood damage and the construction of flood controls, such as dikes, dams, engineered floodways, and bioengineering.

Flood control works are structural floodplain management measures that include modifications such as dikes, levees, revetments and floodwalls.

In-stream structures function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreation or fisheries enhancement. In-stream structures and their support facilities are covered in this section. The following regulations apply to the construction, operation and maintenance of in-stream structures, as well as the expansion of existing structures and support facilities.

## 6.19.2 Regulations - Floodplain Management and Flood Control Works

1. To determine that the provisions of this section are fully addressed, the City may require one or more technical studies/reports prepared by a licensed professional engineer and/or qualified biologist, as applicable, at the time of permit application for flood hazard management projects and programs unless the City determines that issues are adequately addressed via another regulatory review process. Technical reports required pursuant to this section may include any of the following.
  - a. River channel hydraulics and river channel characteristics up and downstream from the project area;
  - b. Existing shoreline stabilization and flood protection works within the area;
  - c. Description of the physical, geological and soil characteristics of the area;
  - d. Description of biological resources and predicted effects of the project on fish, vegetation and animal habitat associated with shoreline ecological functions and processes;
  - e. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;
  - f. Analysis of alternative flood protection measures including both structural and nonstructural;
2. Conditions of Hydraulic Project Approval, issued by the Washington State Department of Fish and Wildlife, may be incorporated into permits issued for flood protection.
3. The City shall require a professional engineer in the design of flood protection works where such projects may cause interference with normal river geohydraulic processes, leading to erosion of other upstream and downstream shoreline properties, or adverse effects to shoreline resources and uses. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.
4. Flood control structures may be allowed when consistent with this Program and when there is credible engineering and scientific evidence that:
  - a. They are necessary to protect existing, lawfully established development; and

- b. They are consistent with SMC Chapter 18.10 Flood Damage Prevention; and
  - c. Nonstructural flood hazard reduction measures are infeasible; and
  - d. Proposed measures are consistent with an adopted comprehensive flood hazard management plan, if available.
5. When allowed, dikes, levees, floodwalls and similar structures must comply with the following:
  - a. Diking is set back to the edge of the OHWM at a minimum except for weirs, current deflectors and similar structures whose primary purpose is to protect public bridges, roads, and other public infrastructure;
  - b. Timing and construction shall be coordinated with Washington Department of Fish and Wildlife;
  - c. Diking shall be designed and constructed to meet Soil Conservation Service technical manual standards and shall, at a minimum include (1) layered compaction, (2) removal of debris (tree stumps, tires, etc.), and (3) revegetation and maintenance until ground cover is established; and
  - d. Appropriate vegetation management actions are undertaken.
6. New dikes, levees and similar structures shall be placed landward of channel migration zones, designated floodways, designated habitat conservation areas, critical area buffers, associated wetlands, and established public access or recreational facilities, or other public benefit, except when the project's primary purpose is to improve ecological functions and done in a manner consistent with Section 6.19.2 Regulation #5, above.
7. Flood protection measures that alter, reroute or change the natural water course of the shoreline may be approved as a conditional use only if it is demonstrated that other flood protection and planning measures would be insufficient. Alternative measures to be analyzed shall include bioengineering techniques, restrictions to development, shoreline setbacks, and comprehensive land use planning.
8. Flood control structures shall be designed to allow for normal groundwater movement and surface runoff. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages.
9. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of

ecological functions, and is part of a comprehensive flood management solution.

10. In addition to requirements of this section, SMC 21.64.330(G) shall apply.

### **6.19.3 Regulations – In-stream Structures**

1. In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, hydrogeological processes, and shoreline critical areas.
2. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
3. In-stream structures shall be designed, located, and constructed in such a manner as to avoid extensive topographical alteration and preserve natural scenic vistas.
4. All in-water diversion structures shall be designed to permit the natural transport of bedload materials. All debris, overburden and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.
5. In-stream structures and their support facilities shall be located and designed to avoid and minimize the need for structural shoreline stabilization.
6. Natural in-stream and in-water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety. In-stream structures may be required to provide public access consistent with Section 5.12. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.
7. In addition to requirements of this section, SMC 21.64.330(J) shall apply.

## **6.20 Shoreline Restoration and Enhancement**

## 6.20.1 Applicability

Restoration and enhancement involves 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.

## 6.20.2 Regulations

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to littoral drift or river current will result that will adversely affect adjacent properties or habitat.
2. Shoreline restoration and/or enhancement projects shall use best available technology and shall demonstrate that they are compatible with the functions of nearby restoration and enhancement sites.
3. Beach restoration and/or enhancement shall **not**:
  - a. Extend waterward more than the minimum amount necessary to achieve the desired result.
  - b. Create “additional dry land”.
  - c. Disturb significant amounts of valuable shallow water fish or wildlife habitat without appropriate mitigation.
4. Shoreline enhancement is prohibited in spawning, nesting or breeding habitat that would be adversely affected by the enhancement efforts.
5. Shoreline enhancement is prohibited where potential dispersal of enhancement materials from littoral drift will adversely affect adjacent spawning, nesting, or breeding habitat.
6. Beach enhancement is prohibited where it will significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
7. Restoration projects shall include a maintenance and monitoring plan, as well as a contingency plan in the event that said project does not achieve its intended objective.
8. Approval of restoration projects shall be based on a review of a plan containing an analysis of existing conditions, identification of the area to be restored, proposed corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary.

9. Shoreline restoration and/or enhancement projects may include shoreline modification actions such as modification of vegetation, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

## 6.21 Shoreline Stabilization

### 6.21.1 Applicability

Shoreline stabilization includes 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. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

### 6.21.2 Regulations – General

1. Permitted shoreline stabilization shall demonstrate that it results in no net loss of ecological function.

2. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
3. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
5. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
6. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
  - b. To protect existing primary structures:
    - i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
  - c. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
    - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - ii. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
    - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.
  - d. In support of water-dependent development when all of the conditions below apply:

- i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
    - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
    - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.
  - e. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW when all of the conditions below apply:
    - i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.
    - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
7. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.
  - a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
  - b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
  - c. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.
  - d. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.
  - e. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

8. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, 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 (3) years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.
9. When any structural shoreline stabilization measures are demonstrated to be necessary per Section 6.21.2, the following requirements shall be met.
  - a. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
  - b. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions in section 5.12. Where feasible, incorporate ecological restoration and public access improvements into the project.
  - c. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt Master Program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.
10. In addition to requirements of this section, SMC 21.64.330(F) shall apply.

### 6.21.3 Regulations – Bioengineered Stabilization

1. The City shall require and utilize the following information, in addition to the standard permit information required by Chapter 2 Applicability, Shoreline Permits and Exemptions, in its review of all bioengineering stabilization projects:
  - a. Proposed construction timing;
  - b. Hydrologic analysis, including predicted flood flows;
  - c. Site vegetation, soil types, and slope stability analysis;
  - d. Proposed project materials including rock size, shape and quantity, plant types, and soil preparations;
  - e. Existing and proposed slope profiles, including location of ordinary high water mark;
  - f. Proposed designs for transition areas between the project site and adjacent properties; and
  - g. Documentation (including photos) of existing (pre-construction) shoreline characteristics.
2. The installation of bioengineering projects shall be scheduled to minimize impacts to water quality, fish and wildlife habitat, and aquatic and upland habitat and to optimize survival of new vegetation.
3. All bioengineered projects shall be designed by a Professional Engineer or Licensed Engineering Geologist in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.
4. Cleared areas shall be replanted following construction. Vegetation shall be fully reestablished within three (3) years. Areas that fail to adequately reestablish vegetation shall be replanted with approved plants until the plantings are viable.
5. All bioengineering projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

### 6.21.4 Regulations - Revetments

1. The City shall require professional design of the proposed revetment if it is determined there are sufficient uncertainties, such as:
  - a. Inadequate data on local geophysical conditions;

- b. Inadequate data on stream flow, velocity, and/or flood capacity; and
  - c. Effects on adjacent properties.
2. Riprap shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water quality, vegetation, and aesthetics. Materials that will not be allowed are sand-cement bags, paving or building blocks, and gabions.
3. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers.

## 6.21.5 Bulkheads

### 6.21.5.1 *General Regulations*

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations including the Department of Fish and Wildlife criteria governing the design of bulkheads. Consideration shall be given to design techniques such as vegetation coverage to enhance fish migration and wildlife habitat.
2. Bioengineered stabilization techniques such as those using natural materials and processes such as protective berms, drift logs, brush, beach feeding or vegetative stabilization are preferred over hard stabilization techniques and shall be utilized to the maximum extent feasible.

### 6.21.5.2 *Location*

1. Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation.
2. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface and sub-surface drainage are suitable for such alterations.

### 6.21.5.3 *Design*

1. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development.
2. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.

3. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
4. Materials used in bulkhead construction shall meet the following standards:
  - a. Bulkheads shall utilize stable, nonerodible, homogeneous materials such as concrete, wood, rock, riprap or other suitable material that will accomplish the desired end with the maximum preservation of natural shoreline characteristics.
  - b. Bulkhead materials shall take into account habitat protection and aesthetics, including consideration of Washington Department of Fish and Wildlife criteria.

# CHAPTER 7

## ADMINISTRATION

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### 7.1 General Provisions

1. There is hereby established an administrative system that (1) assigns responsibilities in the implementation of this Master Program, (2) prescribes an orderly process by which to review shoreline development and shoreline permit applications, and (3) ensures that all persons affected by this Shoreline Master Program (SMP or Program) are treated in a fair and equitable manner.
2. All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act (SMA or Act) and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within the City's shoreline jurisdiction whether or not a shoreline permit or statement of exemption is required.
3. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.
4. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
5. 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.
6. 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.
7. 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 City laws or regulations. The City will inform the applicant, to the extent it can, of additional permitting that may be required for a development proposal (building permits, Hydraulic Project Approval, Army Corps permitting, etc.) in addition to shoreline permitting.

8. Critical area review shall be conducted and processed in conjunction with the following permits, statements or determinations that are applicable to the primary development proposed:
  - a. Statement of Exemption;
  - b. Land Use Permit or Building Permit;
  - c. Excavation, Grading, Clearing and Erosion Control Permit;
  - d. SEPA Threshold Determination;
  - e. Shoreline Substantial Development Permit;
  - f. Shoreline Conditional Use Permit;
  - g. Shoreline Variance; or
  - h. Revisions to Shoreline Permits.

## **7.2 Administrative Authority and Responsibility**

### **7.2.1 Shoreline Administrator**

1. The Director of Planning and Community Development or his/her designee, hereinafter known as the Shoreline Administrator or Administrator, is vested with:
  - a. Administering this Master Program;
  - b. Approving, approving with conditions or denying shoreline substantial development permits in accordance with the policies and provisions of this Master Program, unless a public hearing or appeal is involved;
  - c. Granting or revising statements of exemption from shoreline substantial development permits;
  - d. Establishing the procedures and preparing forms deemed essential for the administration of this Program;
  - e. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Program;
  - f. Making administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act;
  - g. Collecting applicable fees;
  - h. Determining that all applications and necessary information and materials are provided;

- i. Making field inspections, as necessary;
- j. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate application needs;
- k. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required;
- l. Conducting a thorough review and analysis of shoreline substantial development permit applications making written findings and conclusions and approving, approving with conditions, or denying such permits;
- m. Submitting variance and conditional use permit applications and making written recommendations and findings on such permits to the Hearings Examiner for his/her consideration and official action. The Administrator shall assure that all relevant information and testimony regarding the application is made available to the Hearings Examiner during his/her review;
- n. Assuring that proper notice is given to appropriate persons and the public for permit review and hearings;
- o. Providing the notice to the applicants for posting of permit applications in a conspicuous manner on the project site;
- p. Investigating, developing, and proposing amendments to this Program as deemed necessary to more effectively and equitably achieve its goals and policies;
- q. Seeking remedies for alleged violations of this Program, the provisions of the Act, or of conditions of any approved shoreline permit issued by the City; and
- r. Coordinating information with affected tribes and agencies.

## 7.2.2 City Commission

1. The City of Shelton Commission (Commission) is vested with authority to:
  - a. Review and act upon any recommendations of the Administrator for amendments to or revisions of this Program.

## 7.2.3 City Hearings Examiner

1. The City of Shelton Hearings Examiner is vested with authority to:
  - a. Review public input and make decisions on variance requests, conditional use permits, shoreline substantial development permits (when a public hearing is required) and rescissions; provided that the

Hearings Examiner's decisions may be further appealed to the State Shorelines Hearings Board as provided for in the Act.

- b. Consider the Administrator's findings and conclusions pertinent to permit decisions in the case of an appeal made by interested parties or members of the public and render the City's final decision.
- c. Conduct hearings which are specified in the permit process or which have been requested by the Administrator or member(s) of the public.
- d. Prepare written findings and conclusions to approve, deny, or condition a permit based on the criteria established in this Master Program, through a public hearing as required by the permit process or by request.

## 7.2.4 State Department of Ecology and Attorney General

1. The duties and responsibilities of the Washington Department of Ecology shall include:
  - a. Reviewing and approving Master Program amendments prepared by the City of Shelton pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).
  - b. Reviewing and petitioning for review the City's statements of exemption and shoreline substantial development permit decisions.
  - c. Final approval and authority to condition or deny shoreline conditional use permits and shoreline variances filed by the City.

## 7.3 Public Notice Requirements

1. When a complete application has been received by the Administrator, the Administrator shall provide public notice consistent with SMC 17.06.070 with the following exceptions:
  - a. The notice of application shall be published in the newspaper, at a minimum, once a week, on the same day, for two consecutive weeks.
  - b. Interested persons may submit a written request to the City for a public hearing regarding an application for a shoreline substantial development permit within 30 days following the date of the second legal newspaper notice.

## 7.4 Public Hearing by the Hearings Examiner

1. A public hearing shall be held by the City Hearings Examiner regarding an application for shoreline conditional use or shoreline variance permits. A public hearing shall be held regarding an application for a shoreline substantial development permit when:
  - a. The Administrator determines that the proposed development is one of public significance and/or would have a significant impact upon the shoreline environment; or
  - b. An appeal of a shoreline substantial development permit is made.
2. The Hearings Examiner shall review an application for a shoreline substantial development, shoreline conditional use or shoreline variance permit using the following information:
  - a. The application;
  - b. Applicable SEPA documents;
  - c. Evidence presented at the public hearing;
  - d. Written and oral comments from interested persons; and
  - e. The findings, conclusions and recommendations of the Administrator.

## 7.5 Notification to Ecology and the Attorney General

1. The Shoreline Administrator shall notify Ecology and the Attorney General of any statement of exemption, substantial development, conditional use or variance permit decisions made by the Shoreline Administrator (or Hearings Examiner when required), 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 Shoreline Administrator shall file the following with Ecology and the 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 Program policies and regulations and the

- consistency of the project with appropriate review criteria for the type of permit(s);
- c. The final decision or recommendation of the City;
  - d. The permit data sheet per WAC 173-27-990;
  - e. Affidavit of public notice; and
  - f. Where applicable, the 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 indicate the final approved plan.
  3. Ecology shall review the documentation provided by the Shoreline Administrator for completeness. 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 City and the applicant in writing. Ecology will not act on conditional use or variance permit submittals until the material requested in writing is received.

## **7.6 Ecology Review**

1. Ecology shall make a final decision approving, approving with conditions, or disapproving a shoreline conditional use permit or shoreline variance permit and convey its decision to the City and the applicant within thirty (30) days of the date of filing by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.
2. 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, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173 27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.
3. Appeals of Ecology decisions on shoreline conditional use permits and shoreline variance permits shall be made to the Shorelines Hearing Board as specified in Section 7.9.2.

## 7.7 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this Program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.
2. Construction may be commenced no sooner than thirty (30) days after the date of the Shoreline Hearings Board's decision is filed if a permit is granted by the City of Shelton, and
  - a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;
  - b. The Hearings Board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and
  - c. An appeal for judicial review of the Hearings Board decision is filed pursuant to Chapter 34.05 RCW.
3. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology.
4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the Master Program and WAC 173-27-090 the City may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

## 7.8 Revision of Permits

1. A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that which was approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All revisions shall be processed in accordance with WAC 173-27-100.
2. When an applicant seeks to revise a permit, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with Section 7.8, Regulation #4 and WAC 173-27-100.
3. If the proposed changes are determined by the Shoreline Administrator to be within the scope and intent of the original permit, and are consistent with the SMA (RCW 90.58), and this SMP, the revision shall be approved by the Shoreline Administrator.
4. "Within the scope and intent of the original permit" means the following:
  - a. No additional overwater construction will be involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less.
  - b. Lot coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit: Provided, that revisions involving new structures not shown on the original site plan shall require a new permit.
  - c. The revised permit does not authorize development to exceed height, lot coverage, setback or any other requirements of this SMP except as authorized under a variance granted as the original permit or a part thereof.
  - d. Landscaping may be added to a project without necessitating an application for a new permit. Provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this SMP.
  - e. The use authorized pursuant to the original permit is not changed.
  - f. No adverse environmental impact will be caused by the project revision.

5. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of Chapter 90.58 RCW, this regulation and the local Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
6. If the sum of the revision and any previously approved revisions under WAC 173-27-100 or this section violate the provisions in Section 7.8, Regulation #4, local government shall require that the applicant apply for a new permit.
7. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section shall be filed with Ecology. In addition, the Shoreline Administrator shall notify parties of record of the action.
8. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27.
9. Upon receipt of Ecology's final decision, the Shoreline Administrator shall within 14 days notify parties of record of Ecology's final decision.
10. The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under Section 7.8, Regulation #8, upon final action by Ecology.
11. Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of Section 7.8, Regulation #8. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.

## 7.9 Appeals

### 7.9.1 Local Appeals

1. Any decision or ruling made by the Administrator on a substantial development permit, Master Program policy or regulation interpretation, permit revision, or other action within the purview and responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the City of Shelton Hearings Examiner within ten (10) calendar days following the issuance of a written decision by the Administrator. Such appeals shall be initiated by filing with the City Planning Department, who will forward to the Shoreline Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by the Commission. The Hearings Examiner shall hear the appeal as soon thereafter as is feasible. The Hearings Examiner, using the applicable decision making criteria established in this Master Program, shall affirm, modify, or reverse the decision of the Administrator. This decision of the Hearings Examiner shall be the final local government decision. An appeal or request for reconsideration of the Hearing Examiner's decision shall be consistent with Shelton Municipal Code Chapter 2.36. Appeals of Hearings Examiner decisions must be filed with the State Shoreline Hearings Board pursuant to Section 7.9.2 of this Master Program.

### 7.9.2 State Shorelines Hearing Board

1. Any person aggrieved by the granting, denying, rescission or modification of a shoreline permit may seek review from the State Shorelines Hearings Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). All appeals of any final permit decision must be made to the Shorelines Hearings Board within twenty-one (21) days from the date the permit decision was filed.
2. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearings Examiner on appeal. These may include, but are not limited to, shoreline substantial development permits, statements of exemption, shoreline conditional use permits, shoreline variances, and shoreline revisions.

### 7.9.3 State Growth Management Hearings Board

1. Ecology's decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board in accordance with RCW 90.58.190.

## 7.10 Master Program Review

1. This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.
2. This review process shall be consistent with WAC 173-26-090 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

## 7.11 Amendments to Master Program

1. Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100 and 110. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
2. Proposals for shoreline environment redesignations (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in Shoreline Environment Designation Criteria and the Shelton Comprehensive Plan.

## 7.12 Enforcement

Violations of the SMP shall be enforced pursuant to the provisions of SMC Chapter 17.08 Enforcement.

# CHAPTER 8

## DEFINITIONS

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**Accessory Use** - Any structure or use incidental and subordinate to a primary use or development.

**Accretion** - The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks, and tombolos.

**Act** - The Washington Shoreline Management Act (SMA) of 1971, as amended, Chapter 90.58 RCW.

**Adjacent Lands** - Lands adjacent to the shorelines of the state or shorelands, and therefore outside of shoreline jurisdiction as defined by the SMA. The SMA directs local governments to develop land use controls (i.e. zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules, and the local Master Program. See RCW 90.58.340.

**Administrator** - The City of Shelton Director of Planning or his/her designee, charged with the responsibility of administering this Shoreline Master Program.

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

New agricultural activities are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use.

Agricultural products include, but are not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products

including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

Agricultural equipment and agricultural facilities include, but are not limited to:

1. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
2. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; and
3. Farm residences and associated equipment, lands, and facilities.

Agricultural facilities do not include seasonal farmers' markets, and roadside fruit and vegetable stands.

Agricultural lands means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local Master Program pursuant to the state guidelines adopted December 17, 2003, as evidenced by aerial photography or other documentation. After the effective date of the Master Program, land converted to agricultural use is subject to compliance with the requirements of the Master Program (WAC 173-26-020).

**Amendment** - A revision, update, addition, deletion, and/or re-enactment to an existing Shoreline Master Program (WAC 173-26-020).

**Applicant** - An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

**Approval** - An official action by a local government legislative body agreeing to submit a proposed Shoreline Master Program or amendments to Ecology for review and official action; or an official action by Ecology to make a local government Shoreline Master Program effective, thereby incorporating the approved SMP or amendment into the state Master Program (WAC 173-26-020).

**Appurtenance** - An appurtenance is necessarily connected to the use and enjoyment of a single-family residence. 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 (250) cubic yards (except to construct a conventional drainfield) (WAC 173-27-040(2)(g)).

**Aquaculture** - The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. (WAC-26-241(3))

**Associated Wetlands** - Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act (WAC 173-22-030)

**Average Grade Level** - The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly located under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure (WAC 173-27-030). Structures within shoreline jurisdiction shall comply with the definition contained herein.

**Backshore** - The accretion or erosion zone, located landward of the line of ordinary high tide, which is normally wetted only by storm tides. It may take the form of a more or less narrow storm berm (ridge of wave heaped sand and/or gravel) under a bluff or it may constitute a broader complex of berms, marshes, meadows, or dunes landward of the line of ordinary high tide. It is part of the littoral drift process along its seaward boundary.

**Beach** - The zone of unconsolidated material that is moved by waves, wind, and tidal currents, extending landward to the coastline.

**Beach Enhancement/Restoration** - Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills, and other nonintrusive means as applicable.

**Beach Feeding** - Process of replenishing a beach by delivery of materials dredged or excavated elsewhere.

**Bedlands** - The bed of navigable waters.

**Benthic Organism** - Organisms that live in or on the bottom of a body of water.

**Berm** - A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

**Best Available Technology** - The most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably requires low maintenance.

**Biofiltration System** - A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and absorb sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds, and other vegetative features.

**Boat House** - Any walled and roofed structure built over water or upland and used for storage of watercraft or float planes and associated equipment and not used as a dwelling unit.

**Boating Facilities** – Marinas, both backshore and foreshore, dry storage and wet moorage types, liveboards, boat launches, covered moorage, boathouses, mooring buoys, marine travel lifts, floats, piers and docks.

**Boat Launch or Ramp** - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

**Bog** - A type of wetland where (1) organic (peat or muck) soil layers comprise at least 16 of the first 32 inches of the soil profile; or (2) there is more than 70% cover of mosses at ground level and more than 30% of the total shrub and herbaceous cover consists of species listed in Table 3 – Characteristic Bog Species in Washington State found in Hrubby, 2004, Washington State Wetlands Rating System for Western Washington, Ecology publication #04-06-025, or as revised by Ecology. Many bogs have soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater. .

**Breakwater** - Offshore structure, sometimes shore-connected, that provides protection from waves.

**Buffer** - The area adjacent to the outer boundaries of a critical area, such as wetlands, habitat conservation areas (streams, marine shorelines), and/or landslide hazard areas, that provides an area for related ecological functions to take place and/or separates and protects critical areas from adverse impacts associated with adjacent land uses..

**Bulkhead** - A solid or open pile wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from erosion by wave action.

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. (WAC 173-27-040)

**Buoy** – See Mooring Buoy.

**Channel** - An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels .

**Channel Migration Zone** - The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings (WAC 173-26-020). It encompasses that area of current and historic lateral stream channel movement that is subject to

erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

**City** - The City of Shelton, Washington.

**Clean Water Act** - The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

**CFR** - Code of Federal Regulations.

**Clearing** - The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

**Commercial Development** - Uses that are involved in wholesale, retail, service and business trade. Examples of commercial uses include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities. Excluded from this definition are residential subdivisions, boating uses and industry.

**Community Structure** - A building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.

**Conditional Use** - A use, development, or substantial development which is classified as a conditional use or is not classified within the Master Program (WAC 173-27-030).

**Conditional Use Permit** - Local governments are authorized under the SMA to include provisions for authorizing land uses and developments that may be permitted by conditional use permits (CUP). The purpose of the conditional use permit is to allow greater flexibility in varying the application of the use regulations of the Master Program.

**Covered Moorage** - Boat moorage, without walls, that has a roof to protect a vessel.

**Critical Areas** - The following areas as required in SMC 21.64 shall be regarded as critical areas:

1. Critical aquifer recharge areas (see SMC Chapter 21.66).
2. Wetlands.
3. Geologically hazardous areas.
4. Frequently flooded areas.
5. Fish and wildlife habitat conservation areas.

**Critical Saltwater Habitats** - All kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial

and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association (WAC 173-26-221).

**Degrade** - To scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function.

**Development** – An activity 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 of the state subject to the Shoreline Management Act of 1971 at any state of water level (RCW 90.58.030(3)(a)).

**Development Regulations** - The controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a Shoreline Master Program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto (WAC 173-26-020).

**Dock** – A landing and/or moorage facility which abuts the shoreline; is used for commercial and/or pleasure craft; and does not include recreational decks, storage facilities or other appurtenances (WAC 173-27-040).

**Dock, Community** – A dock which is intended for the common use of the residents of a particular subdivision or community.

**Dock, Joint-Use** - A dock serving two or more lots each of which has water frontage.

**Dredge Spoil or Dredge Material Disposal**- Dredge spoil is the material removed by dredging. Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the byproducts of dredging.

**Dredging** - The removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, lake or marine water body and associated wetlands. .

**Drift Sector or Drift Cell** - A particular reach of marine shore in which littoral drift may occur without significant interruption, and which contains any and all natural sources of such drift, and also any shoreform(s) accreted by such drift. Each normal drift sector contains these shore process elements: feeder bluff or estuary, driftway, littoral drift, and accretion shoreform.

**Driftway** - That portion of the marine shore process corridor, primarily the upper foreshore, through which sand and gravel are transported by littoral drift. The driftway is the essential component between the feeder bluff and the accretion

shoreform of an integral drift sector. Driftways are also characterized by intermittent, narrow berm beaches.

**Ecological Functions or Shoreline Functions** - The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem(WAC 173-26-200 (2)(c)).

**Ecology** - The Washington State Department of Ecology, also referred to as the Department.

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

**Effective Date of Permit** - The effective date of shoreline substantial development, conditional use and variance permits shall be the date of filing (for shoreline substantial development permit the date of filing is the date Ecology receives the local government's decision; for conditional use and variance permits the date of filing is the date Ecology's decision is transmitted to the local government).

**Emergency** - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the provisions of this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed (WAC 173-27-040).

**Enhancement** - Actions performed within an existing degraded critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing critical area or buffer. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing nonindigenous plant or animal species.

**Erosion** - A process whereby wind, rain, water and other natural agents mobilize, transport, and deposit soil particles.

**Estuary** - The zone in which fresh water and saltwater mingle and affect the total land and water habitat.

**Estuarine Zone, Estuary** - The zero-gradient sector of a stream where it flows into a standing body of water together with associated wetlands; tidal flows reverse flow in this zone twice daily, determining its upstream limit. It is characterized by low bank channels branching off the main streamway to form a broad, near-level delta; bank, bed and delta materials are typically silt and clay, banks are stable, vegetation ranges from marsh to forest, and water is usually brackish due to daily mixing and layering of fresh and salt water. Estuarine shores are rich in aquatic and other bird

and animal life, and in their natural condition are the most productive of all shoreline habitats in terms of the marine food chain.

**Exemption** - Exempt developments are those set forth in Section 2.3.2 of this Program which are not required to obtain a shoreline substantial development permit but which must otherwise comply with applicable provisions of the act and the local Master Program. Conditional use and/or variance permits may also be required even though the activity does not need a substantial development permit (WAC 173-27-030).

**Extreme Low Tide** - The lowest line on the land reached by a receding tide (RCW 90.58.030(2)(a)). For the purposes of the Shoreline Master Program, it is the contour 4.5 feet below mean lower low water (WAC 332-30-106 (18)).

**Fair Market Value** - The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials. (WAC 173-27-030).

**Feasible** - An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal 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 reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames (WAC 173-26-020).

**Feeder Bluff, Erosional Bluff** - 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.

**Fill** - The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land (WAC 173-26-020).

**Float** - A fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and is used for water-dependent recreation or moorage for vessels or watercraft.

**Floating Home** - A single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.. (See also Houseboat.)

**Floodplain** - Synonymous with one-hundred (100) year floodplain and refers to the land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year. The limits of this area are based on flood ordinance regulation maps or a reasonable method which meets the objectives of the SMA (WAC 173-26-020).

**Floodway** - The area, as identified in this Program, that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state (RCW 90.58.030(2)(b)).

**Foreshore** - The intertidal area between mean higher high water and mean low water.

**Forest Practice** - Uses and activities relating to the growing, harvesting and limited processing of timber. This includes, but is not limited to, (1) site preparation and regeneration; (2) protection from insects, fire and disease; (3) silvicultural practices such as thinning, fertilization and release from competing vegetation; and (4) harvesting.

**Gabions** - Structures composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

**Geotechnical Report or Geotechnical Analysis** - A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to

adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes (WAC 173-26-020).

**Grading** - The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land (WAC 173-26-020).

**Grassy Swale** - A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

**Groin** (also referred to as a spur dike or rock weir) - A barrier-type structure extending from the backshore or streambank 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.

**Guidelines** - Those standards adopted by Ecology to implement the policy of Chapter 90.58 RCW and WAC 173-26 for regulation of use of the shorelines of the state prior to adoption of Master Programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending Master Programs (WAC 173-26-020).

**Habitat** - The place or type of site where a plant or animal naturally or normally lives and grows.

**Hearing(s) Board or State Shorelines Hearings Board** - Established by the Shoreline Management Act of 1971 to decide appeals of cases involving shoreline substantial development permits, conditional uses, or variances (RCW 90.58.030).

**Hearings Examiner** - The Hearings Examiner of the City of Shelton.

**Height** - The distance measured from the average grade level to the highest point of a structure; provided that television antennas, chimneys, flag poles, and similar appurtenances shall not be used in calculating height except where such appurtenances obstruct the view of the shoreline of a substantial number of residences adjoining such shorelines. Temporary construction equipment is excluded in this calculation (WAC 173-27-030). For all overwater structures height shall be measured from ordinary high water mark.

**Houseboat** - A structure used for living quarters which may be licensed as a vessel but is designed primarily to be a residence. See also Floating Home.

**HPA** - Hydraulic Project Approval. The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW and Chapter 220-110 WAC.

**Industrial Development** - Facilities for processing, manufacturing and storage of finished or semi-finished goods. Examples of industrial development include container ship terminals, log storage, log rafting, lumber milling and processing, petroleum storage, transport and storage, ship building, and tug and barge operations.

**Institutional Uses** - Facilities for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, libraries, museums, community centers, government offices, and the relevant essential public facilities identified in WAC 365-196-550.

**In-stream Structure** - A structure placed by humans within a stream or river waterward of the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose (WAC 173-26-241).

**Intertidal** - The substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

**Jetty** - Structures that are generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

**Levee** - A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

**Littoral** - Living on, or occurring on, the shore.

**Littoral Drift** - The movement of mud, sand, or gravel material parallel to the shoreline in the nearshore zone by waves and currents.

**Liveaboard** - A boat principally used as an overwater residence, being occupied in a single location for a period exceeding two (2) months in any one (1) calendar year. Liveaboards are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion and steering equipment to operate as a boat.

**Marina** - A water-dependent use that consists of a system of piers, buoys, or floats providing permanent or long-term moorage for ten (10) or more vessels. Community moorage facilities, yacht club facilities, and camp or resort moorage

areas providing moorage for ten (10) or more vessels are also included in this definition.

**Marine** – Tidally influenced waters of Puget Sound and associated bays, estuaries and inlets.

**Marine Travel Lift** - A mechanical device or sling that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

**Mark** - A visible line on the bank with respect to vegetation, soil, or other physical line created by erosion, barnacles, or leaching. In the case of two hydrologic systems interacting at the site, the higher of the two marks is used.

**Master Program** - The comprehensive use plan for a described area, and the 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 enunciated in RCW 90.58.020 (RCW 90.58.030).

**May** - The action is acceptable, provided it conforms to the provisions of this Master Program (WAC 173-26-020).

**Mean Higher High Water (MHHW)** - The arithmetic mean of the higher of two daily high tides calculated from the most recent 19 year tidal cycle. It is measured from the mean lower low water = 0.0 tidal elevation (WAC 220-110-020).

**Mean Lower Low Water (MLLW)** - The arithmetic mean of the lower of two daily low tides calculated from the most recent 19 year tidal cycle (elevation: 0.0 feet) (WAC 220-110-020).

**Mining** - The removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits (WAC 173-26-241).

**Mooring Buoy** - A buoy secured to the bottom by permanent moorings and provided with means for mooring a vessel by use of its anchor chain or mooring lines.

**Must** - A mandate; the action is required (WAC 173-26-020).

**Natural Topography or Existing Topography** - The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling (WAC 173-27-030).

**Nonconforming Development** - A structure or development which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

**Nonconforming Use** - A use or activity that was lawfully established prior to the date of the applicable SMA/SMP and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

**Nonwater-oriented Use** - Those uses that are not water-dependent, water-related, or water-enjoyment (WAC 173-26-020).

**Normal Maintenance** - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040). See Normal Repair.

**Normal Protective Bulkhead** - See Bulkhead.

**Normal Repair** - To restore a development to a state comparable to its original condition, including but not limited to its size, shape configuration, location and external appearance, within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. 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. (WAC 173-27-040). See Normal Maintenance.

**OHW, Ordinary High Water Mark** - That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water (RCW 90.58.030). The following criteria clarify this mark on those waters within the City of Shelton per WAC 173-22-030(5), specifically, lakes, streams and marine waters.

1. Tidal waters.
  - a. In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred (100) feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide;

- b. In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand;
2. Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;
3. Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

**Parking** - Temporary storage of automobiles or other motorized vehicles.

**Periodic** - Occurring at regular intervals.

**Permit (or Shoreline Permit)** - Any substantial development, variance, conditional use permit, or revision, or any combination thereof, authorized under Chapter 90.58 RCW (WAC 173-27-030).

**Pier** - A fixed platform structure supported by piles generally built from the shore and extending out over the water to provide water access or moorage.

**Pier, Community** - A pier which is intended for the common use of the residents of a particular subdivision or community.

**Pier, Joint-Use** - A pier serving two (2) or more lots each of which has water frontage.

**Point** - A low profile shoreline promontory that may be either the wave-cut shelf remaining from an ancient bluff or the final accretional phase of a hooked spit that closed the leeward side gap.

**Port** - A public enterprise providing services and facilities for commerce, transportation and economic development.

**Primary Structure** - The structure associated with the principal use of the property. It may also include single family residential appurtenant structures (such as garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses, or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

**Provisions** - Policies, regulations, standards, guideline criteria or environment designations (WAC 173-26-020).

**Public Access** - The ability of the general public to reach, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations (WAC 173-26-221).

**Public Interest** - The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030).

**RCW** - Revised Code of Washington.

**Recreational Development** - Commercial and public facilities designed and used to provide recreational opportunities to the public (WAC 173-26-241).

**Residential Development** - Development of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division.

**Restore, Restoration, Ecological Restoration** - The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020).

**Revetment** - Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

**Riparian Corridor or Riparian Zone** - The area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or and fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

**Riparian Vegetation** - Vegetation that tolerates and/or requires moist conditions and periodic free-flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilize streambanks, attenuate high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize streambeds.

**Riprap** - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment.

**Runoff** - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

**Seaward** - To or toward the sea.

**Sediment** - The material deposited by water or wind.

**Setback** - The distance an activity, building, or structure must be located from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required.

**Shall** - A mandate; the action must be done (WAC 173-26-020).

**Shorelands or Shoreland Areas** - Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of Chapter 173-22 WAC, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58 (RCW 90.58.030).

**Shoreline Administrator** - The City of Shelton Director of Planning and Community Development or his/her designee responsible for administering this Program.

**Shoreline Environment Designations** - The categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas (WAC 173-26-211).

**Shoreline Jurisdiction** - All shorelines of the state and shorelands (WAC 173-26-020 and RCW 90.58.030).

**Shoreline Master Program (SMP)**, Master Program or Program - The comprehensive use plan for a described area and the 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 enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a Shoreline Master Program approved under Chapter 90.58 RCW shall be considered an element of the city's comprehensive plan. All other portions of the Shoreline Master Program for a city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the city's development regulations (WAC 173-26-020).

**Shoreline Modifications** - Actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other

shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals (WAC 173-26-020).

**Shoreline Permit** - See Permit.

**Shoreline Stabilization** - Actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and nonstructural methods. Structural measures include but are not limited to bulkheads, revetments, riprap and soft structural measures such as bioengineering or beach enhancement. Nonstructural measures include building setbacks, relocation of structures, and groundwater management.

**Shorelines** - All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

**Shorelines Hearings Board (SHB)** - See Hearings Board.

**Shorelines of Statewide Significance** - A select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies and regulations apply. Within the jurisdiction of the City of Shelton, those areas of Puget Sound lying seaward from the line of extreme low tide qualify as shorelines of statewide significance.

**Shorelines of the State** - The total of all “shorelines” and “shorelines of statewide significance” within the state (RCW 90.58.030).

**Should** - The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and the Guidelines, against taking the action (WAC 173-26-020).

**Sign** - A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

**Significant Vegetation Removal** - The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal (WAC 173-26-020).

**Single-family residence** - A detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040).

**SMA** - The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

**Soil Bioengineering** - An applied science that combines structure, biological, and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

**Spit** - An accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping, silt or marshy shore on the lagoon or leeward side. A curved spit is normally called a hook.

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

**Substantial Development** - Any development of which the total cost or fair market value exceeds six thousand four hundred and sixteen dollars (\$6,416), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in 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. See also Development and Exemption.

**Substantially Degrade** - To cause significant ecological impact (WAC 173-26-020).

**Subtidal** - The area of the marine environment below extreme low tide.

**Sustainable Development** - Development which maintains a balance between the health of the natural environment and the needs of the human community which lives within it.

**Terrestrial** - Of or relating to land, as distinct from air or water.

**Tidal Water** - Includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream (WAC 173-22-030(9)).

**Tidelands** - Land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

**Transportation Facility** - Structures and developments that aid in land and water surface movement of people, goods, and services.

**Upland** - Generally described as the dry land area above and landward of the OHWM.

**Utilities** - Services and facilities that produce, convey, store, or process power, power, oil, gas, natural gas, sewage, communications, water and the like.

**Utilities, Accessory** - On-site utility features serving a primary use, such as a water, sewer or gas line to a residence.

**Variance** - A means to grant relief from the specific bulk, dimensional or performance standards specified in the Master Program and not a means to vary a use of a shoreline (WAC 173-27-030).

**Vegetation Conservation** - Includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species (WAC 173-26-221).

**Vessel** - A ship, boat, barge, or any other floating craft which is designed and used for navigation and does not interfere with normal public use of the water.

**WAC** - Washington Administrative Code.

**Water-dependent** - A use or a portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations (WAC 173-26-020). Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, log haulout/float areas, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

**Water-enjoyment** - Recreational uses, or other uses that facilitate public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to specific aspects of the use that foster shoreline enjoyment (WAC 173-26-020). Examples may include parks, piers, museums, restaurants, educational/scientific reserves and resorts.

**Water-oriented** - A use that is water-dependent, water-related, or water-enjoyment use, or a combination of such uses (WAC 173-26-020). Nonwater-oriented examples include professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores, and gas stations.

**Water Quality** - The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this Master Program, the term "water quantity" refers only to development and uses regulated under the Shoreline Management Act and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this Master Program, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020).

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

- 1) 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
- 2) 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 (WAC 173-26-020).

Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and log storage.

**WDFW** - Washington Department of Fish and Wildlife.

**Weeds** - Invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List.

# **APPENDIX A**

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## **SMC Chapter 21.64 Critical Area Protection**

## Chapter 21.64 CRITICAL AREA PROTECTION

### Sections:

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- [21.64.325](#) Fish and wildlife habitat conservation areas—Water bodies—Buffer averaging.
- [21.64.326](#) Fish and wildlife habitat conservation areas—Water bodies—Buffer increase.
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[21.64.340](#) Other fish and wildlife habitat conservation areas.

[21.64.360](#) Fish and wildlife habitat conservation areas—Review and reporting requirements.

[21.64.370](#) Fish and wildlife habitat conservation areas—Mitigation standards.

[21.64.380](#) Fish and wildlife habitat conservation areas—Development standards for adjacent development.

**21.64.010 Purpose and authority.**

A. These sections establish regulations pertaining to the development of critical areas, as required under the Growth Management Act of 1990 (Chapter 36.70A RCW). State guidelines for classification and protective methods for critical areas are addressed in Chapter 365-190 WAC. “Critical areas” are wetland areas, aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

B. The purpose of these local regulations is to protect the environmentally sensitive resources of Shelton by establishing minimum standards for development of properties which contain or adjoin environmentally sensitive features and thus protect the public health, safety and welfare in regard to critical areas. The city is classifying all required categories of critical areas throughout the city and implementing development regulations to address these areas through these chapters. These standards serve to preclude land uses and developments which are incompatible with critical areas by:

1. Protecting the public from personal injury, loss of life or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;
2. Protecting against publicly financed expenditures to address improper use or improper management of critical areas;
3. Preventing degradation of the natural environment;
4. Protecting unique, fragile, and valuable elements of the environment;
5. Including the best available science in developing policies and development regulations to protect the functions and values of critical areas;
6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
7. Alerting property owners, potential buyers or lessees, appraisers, assessors, and others to the existence of and the development limitations of critical areas;

8. Providing city officials with sufficient information to adequately protect critical areas when approving, conditioning or denying public or private development proposals;

9. Meeting the requirements of the National Flood Insurance Program and maintain Shelton as an eligible community for federal flood insurance benefits. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.020 Applicability.**

This chapter establishes designations and regulations for the protection of all properties which are critical areas. Properties listed, identified, designated, classified or rated as critical areas are those so designated on the resource maps referenced in this chapter, or by separate studies which indicate that all or portions of a particular area or specific site are environmentally sensitive or critical areas. A site-specific analysis which indicates that any element regulated by this chapter is present will result in a property being classified as an environmentally sensitive critical area. Land uses or developments proposed on or adjacent to sites which are critical areas shall comply with the provisions of this chapter. "Critical areas" are wetlands, frequently flooded areas, critical aquifer recharge areas, geologically hazardous areas, and critical fish and wildlife habitat conservation areas. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.030 Definitions.**

Definitions of terms used in this chapter are:

"Accessory structure" means a structure that is incidental and subordinate to a primary use. Barns, garages, storage sheds, and similar structures are examples.

"Activity" means human activity associated with the use of land or resources.

"Adaptive management" means using scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. Management policy may be adapted based on a periodic review of new information.

"Agricultural activities" means those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds or drainage ditches irrigation systems, canals, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities that bring an area into agricultural use are not agricultural activities.

“Agricultural land” is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and/or lands that have been designated as capable of producing food and fiber, which have not been developed for urban density housing, business, or other uses incompatible with agricultural activity.

“Alluvial fan” means a fan-shaped deposit of sediment and organic debris formed where a stream flows or has flowed out of a mountainous upland onto a level plain or valley floor because of a sudden change in sediment transport capacity (e.g., significant change in slope or confinement).

“Alluvium” is a general term for clay, silt, sand, gravel, or similar other unconsolidated detrital materials, deposited during comparatively recent geologic time by a stream or other body of running water, as a sorted or semi-sorted sediment in the bed of the stream or on its floodplain or delta.

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the critical area.

“Anadromous fish” means fish species that spend most of their lifecycle in salt water, but return to freshwater to reproduce.

“Aquifer” means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs (Chapter 173-160 WAC).

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

“Aquifer vulnerability” is the combined effect of susceptibility to contamination and the presence of potential contaminants.

“Base flood” is a flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the one-hundred-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A (zone subject to flooding during a one-hundred-year flood, but less so than V zones) or V (zone subject to the highest flows, wave action, and erosion during a one-hundred-year flood).

“Bedrock” is a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

“Best available science” means information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas. As defined by WAC 365-195-900 through 365-195-925, best available science is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

“Best management practices” means conservation practices or systems of practices and management measures that reflect the current scientific and technical consensus on the best or most effective means of addressing adverse effects upon a resource.

“Buffer” means the area adjacent to the outer boundaries of a critical area, such as wetlands, habitat conservation (streams, marine shorelines habitat areas), and/or landslide hazard areas, that provides an area for related ecological functions to take place and/or separates and protects critical areas from adverse impacts associated with adjacent land uses.

“Channel migration zone” means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

“City” means the city of Shelton, Washington.

“Clearing” means the removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

“Compensatory mitigation” means a mitigation project for the purpose of replacing, at an equivalent or greater level, unavoidable critical area and buffer impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.

“Conservation” means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful utilization of natural resources in order to prevent depletion or harm to the environment.

“Conservation easement” means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally in groundwater, air, or soil or that occurs at concentrations greater than those in the natural levels (see also Chapter 173-200 WAC).

“Critical aquifer recharge area” means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2). (Regulated in Chapter 21.66.)

“Critical area study or report” means a report prepared by a qualified professional or qualified consultant based on best available science, and the specific methods and standards for technical study required for each applicable critical area. Geotechnical reports and hydrogeological reports are critical area reports specific to geologically hazardous areas and critical aquifer recharge areas, respectively.

“Critical area tract” means land held in an open undeveloped condition with preservation of native vegetation and other natural features in perpetuity for the protection of critical areas.

Critical Areas. The following areas as required in this chapter shall be regarded as critical areas:

1. Critical aquifer recharge areas (regulated in Chapter 21.66).
2. Wetlands.
3. Geologically hazardous areas.
4. Frequently flooded areas.
5. Fish and wildlife habitat conservation areas.

“Critical facilities” means buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes pursuant to the International Building Code (IBC), 2003 Edition. These include but are not limited to:

1. Buildings and other structures that represent a substantial hazard to human life in the event of failure including, but not limited to:

- a. Buildings and other structures where more than fifty people congregate in one area;
- b. Buildings and other structures with elementary school, secondary school or day care facilities with an occupant load greater than fifty;
- c. Buildings and other structures with an occupant load greater than fifty for colleges or adult education facilities;
- d. Health care facilities with an occupant load of fifty or more resident patients but not having surgery or emergency treatment facilities;
- e. Jails and detention facilities;
- f. Any other occupancy with an occupant load greater than fifty;
- g. Power generating stations, water treatment for potable water, waste water treatment facilities and other public utility facilities not included in subsection 2 of this definition;
- h. Buildings and structures not included in subsection 2 of this definition containing sufficient quantities of toxic or explosive substances to be dangerous to the public if released.

2. Buildings and other structures designed as essential facilities including but not limited to:

- a. Hospitals and other health care facilities having surgery or emergency treatment facilities;
- b. Fire, rescue and police stations and emergency vehicle garages;
- c. Designated earthquake, hurricane or other emergency shelters;
- d. Designated emergency preparedness, communication, and operation centers and other facilities required for emergency response;
- e. Structures containing highly toxic materials as defined by IBC Section 307 where the quantity of the material exceeds the maximum allowable quantities of IBC Table 307.7(2);
- f. Aviation control towers, air traffic control centers and emergency aircraft hangars;

- g. Buildings and other structures having critical national defense functions;
- h. Water treatment facilities required to maintain water pressure for fire suppression;
- i. Power-generating stations and other public utility facilities required as emergency backup facilities for structures listed above.

“Critical habitat” means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the priority habitat and species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

“Debris flow” means a moving mass of rock fragments, soil, and mud; more than half of the particles being larger than sand size; a general term that describes a mass movement of sediment mixed with water and air that flows readily on low slopes.

“Debris torrent” means a violent and rushing mass of water, logs, boulders and other debris.

“Deepwater habitats” means permanently flooded lands lying below the deepwater boundary of wetlands. Deepwater habitats include environments where surface water is permanent and often deep, so that water, rather than air, is the principal medium in which the dominant organisms live. The boundary between wetland and deepwater habitat in the marine and estuarine systems coincides with the elevation of the extreme low water of spring tide; permanently flooded areas are considered deepwater habitats in these systems. The boundary between wetland and deepwater habitat in the riverine and lacustrine systems lies at a depth of two meters (six and six-tenths feet) below low water; however, if emergent vegetation, shrubs, or trees grow beyond this depth at any time, their deepwater edge is the boundary.

“Development” means any activity that results in a change of use or modification of land or its resource. These activities include but are not limited to: clearing of vegetation; filling, grading and other topographic modification; building construction or modification; construction of roads, trails, utilities and other facilities.

“Director” means the director of the city of Shelton department of community and economic development. Functions of the director as defined by this chapter may be assigned to other city of Shelton staff persons at the discretion of the director.

“Drainage ditch” means an artificially created watercourse constructed to drain surface or groundwater. Ditches are graded (manmade) channels installed to collect and convey runoff from fields and roadways. Ditches may include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Ditched channels that support fish are considered to be streams.

“Emergency” refers to an unanticipated and imminent threat to public health, safety or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed. 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.

“Emergent wetland” means a wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

“Enhancement” means actions performed within an existing degraded critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing critical area or buffer. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing nonindigenous plant or animal species.

“Erosion” means a process whereby wind, rain, water and other natural agents mobilize, and transport, and deposit soil particles.

“Erosion hazard areas” means lands or areas underlain by soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) as having “severe” or “very severe” erosion hazards and areas subject to impacts from lateral erosion related to moving water such as river channel migration and shoreline retreat.

“Essential public facility” means those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, and group homes.

“Estuary” means the zero-gradient sector of a stream where it flows into a standing body of water together with associated natural wetlands; tidal flows reverse flow in the wetland twice daily, determining its upstream limit. It is characterized by low bank channels (distributaries) branching off the main stream to form a broad, near-level delta; bank, bed and delta materials are silt and clay, banks are stable, vegetation ranges from marsh to forest, and water is usually brackish due to daily mixing and layering of fresh and salt water.

“Feasible alternative” means a course of action that can include uses, design, construction techniques, and other features on a site or alternative sites that are reasonably capable of being carried out after taking into consideration existing technology and logistics and that has less impact to critical areas. Cost is one factor in determining whether an action is capable of being carried out.

“Fen” means a mineral-rich wetland formed in peat that has a neutral to alkaline pH. Fens are wholly or partly covered with water and dominated by grass-like plants, grasses, and sedges.

“Fill material” means any solid or semi-solid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure, that when placed, changes the grade or elevation of the receiving site.

“Filling” means the act of transporting or placing by any manual or mechanical means fill material from, to, or on any soil surface, including temporary stockpiling of fill material.

“Fish and wildlife habitat conservation areas” are areas important for maintaining species in suitable habitats within their natural geographic distribution so that isolated populations are not created.

“Fish habitat” means a complex of physical, chemical, and biological conditions that provide the life supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, lakes, estuaries, marine waters, and nearshore areas include, but are not limited to, the following:

1. Clean water and appropriate temperatures for spawning, rearing, and holding;
2. Adequate water depth and velocity for migrating, spawning, rearing, and holding, including off-channel habitat;
3. Abundance of bank and in-stream structures to provide hiding and resting areas and stabilize stream banks and beds;
4. Appropriate substrates for spawning and embryonic development. For stream and lake dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;

5. Presence of riparian vegetation as defined in this section. Riparian vegetation creates a transition zone, which provides shade, and food sources of aquatic and terrestrial insects for fish;

6. Unimpeded passage (i.e., due to suitable gradient and lack of barriers) for upstream and downstream migrating juveniles and adults.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

“Floodplain” means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot. Also known as the “zero rise floodway.”

Note: This definition of “floodway” is not applicable to the use of “floodway” in RCW 90.58.030(2).

“Forested wetland” means a wetland with at least thirty percent of the surface area covered by woody vegetation greater than twenty feet in height, excluding monotypic stands of red alder or cottonwood that average eight inches in diameter at breast height or less.

“Frequently flooded areas” means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance and attenuation functions, as determined by the county in accordance with WAC 365-190-080(3). Classifications of frequently flooded areas include, at a minimum, the one-hundred-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

“Function and value” means the beneficial roles served by critical areas and the values people derive from these roles including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protection from hazards, providing historical and archaeological resources, noise and visual screening, open space, and recreation. These beneficial roles are not listed in order of priority.

“Function assessment” or “functions and values assessment” means a set of procedures, applied by a qualified professional, to identify the ecological functions being performed in a wetland or other critical area, usually by determining the presence of certain characteristics, and determining how well the critical area is performing those functions.

Function assessments can be qualitative or quantitative and may consider social values potentially provided by the wetland or other critical area. Function assessment methods must be consistent with best available science.

“Functions” means the processes or attributes provided by areas of the landscape (e.g., wetlands, rivers, streams, and riparian areas) including, but not limited to, habitat diversity and food chain support for fish and wildlife, groundwater recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and flood water attenuation and flood peak desynchronization, and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

“Game fish” means those species of fish that are classified by the Washington Department of Wildlife as game fish (WAC 232-12-019).

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose unacceptable risks to public health and safety and may not be suited to commercial, residential, or industrial development.

“Gradient” means a degree of inclination, or a rate of ascent or descent, of an inclined part of the earth’s surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio (vertical to horizontal), a fraction (such as meters/kilometers or feet/miles), a percentage (of horizontal distance), or an angle (in degrees).

“Grading” means any excavating or filling of the earth’s surface or combination thereof.

“Groundwater” means all water that exists beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

“Groundwater management area” means a specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a groundwater management program is required.

“Groundwater management program” means a comprehensive program designed to protect groundwater quality, to assure groundwater quantity, and to provide for efficient management of water resources while recognizing existing groundwater rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated groundwater management area or subarea and developed pursuant to Chapter 173-100 WAC.

“Growing season” means the portion of the year when soil temperatures are above biologic zero (forty-one degrees Fahrenheit).

“Growth Management Act” means Chapters 36.70A and 36.70B RCW, as amended.

“Hazard tree” means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

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

“High intensity land use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than one unit/acre), high intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), hobby farms.

“Hydraulic project approval (HPA)” means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 77.55 RCW.

“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual (RCW 90.58.380).

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups:

1. Low runoff potential and a high rate of infiltration potential;
2. Moderate infiltration potential and a moderate rate of runoff potential;
3. Slow infiltration potential and a moderate to high rate of runoff potential; and
4. High runoff potential and very slow infiltration and water transmission rates.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“Hyporheic zone” means the saturated zone located beneath and adjacent to streams that contain some proportion of surface water from the surface channel. The hyporheic zone serves as a filter for nutrients, as a site for macroinvertebrate production important in fish nutrition and provides other functions related to maintaining water quality.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Impervious surfaces do not include surface created through proven low impact development techniques.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“In-kind compensation” means to replace critical areas with substitute areas whose characteristics and functions mirror those destroyed or degraded by a regulated activity.

“Intertidal zone” means the substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

“Invasive species” means a species that is (1) non-native (or alien) to the Puget Sound lowlands and the city of Shelton urban growth area, and (2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

“Lake” means a naturally or artificially created body of deep (generally greater than six and six-tenths feet) open water that persists throughout the year. A lake is larger than a pond, greater than one acre in size, equal to or greater than six and six-tenths feet in depth, and has less than thirty percent aerial coverage by trees, shrubs, or persistent emergent vegetation. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake’s ordinary high water mark to the stream where the stream enters the lake.

“Landfill” means a disposal facility or part of a facility at which solid waste and/or demolition waste is permanently placed in or on land including facilities that use solid waste as a component of fill. In addition, landfill includes all related land and structures

and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.

“Landslide” is a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

“Landslide hazard areas” means areas that, due to a combination of site conditions like slope inclination and relative soil permeability, are susceptible to mass wasting.

“Low intensity land use” means land use that includes the following uses or activities: forestry (cutting of trees only), low intensity open space (such as passive recreation and natural resources preservation), unpaved trails.

“Maintenance and repair” means work required to keep existing improvements in their existing operational state. This does not include any modification that changes the character, scope, or size of the original structure, facility, utility or improved area.

“Major alteration or renovation” means the alteration or renovation of any structure or associated improvements within a critical area or buffer that results in an expansion of floor area of five hundred square feet or more, or more than ten percent and less than fifty percent, whichever is greater; or the expansion of impervious surface by more than one thousand square feet, or more than ten percent and less than fifty percent, whichever is greater; or remodeling or renovation that is greater than fifty percent but less than one hundred percent of the value of the structures or improvements, excluding plumbing, electrical and mechanical systems.

“Mass wasting” means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

“Mature forested wetland” means a wetland with an overstory dominated by mature trees having a wetland indicator status of facultative (FAC), facultative-wet (FACW), or obligate (OBL). Mature trees are considered to be at least twenty-one inches in diameter at breast height.

“Mean annual flow” means the average flow of a river or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous ten years should be used in determining mean annual flow.

“Minor alteration or renovation” means alteration or renovation of any structure or associated improvements within a critical area or buffer that results in an expansion of

floor area of less than five hundred square feet, or ten percent, whichever is less; or the expansion of impervious surface by less than one thousand square feet, or ten percent, whichever is less; or remodeling or renovation that is less than fifty percent of the value of the structure or improvements, excluding plumbing, electrical and mechanical systems.

“Mitigation” means individual actions that may include a combination of the following measures, listed in order of preference:

1. Avoiding an impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment; such as repairing damage done to a critical area resource such as stream or wetland after it is affected by a project;
4. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for an impact by replacing or providing substitute resources or environments; and
6. Monitoring the mitigation and taking remedial action when necessary.

“Mitigation bank” means a site where wetlands or similar habitats are restored, created, enhanced, or, in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to aquatic resources.

“Mitigation plan” means a detailed plan indicating actions necessary to mitigate adverse impacts to critical areas.

“Moderate intensity land use” means land use that includes the following uses or activities: residential (one unit/acre or less), moderate intensity open space (parks), moderate intensity new agriculture (orchards and hay fields), plant nurseries, paved trails, and building of logging roads.

“Monitoring” means evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and/or geological elements of such systems and/or assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

“Native vegetation” means plant species that are indigenous to the Puget Sound lowland and the city of Shelton urban growth area. For the purposes of establishment of native vegetation within buffer areas, native vegetation shall include, but not be limited to, the following:

1. Native evergreen trees: Douglas fir, *Pseudotsuga menziesii*; grand fir, *Abies grandis*; Pacific madrone, *Arbutus menziesii*; western red cedar, *Thuja plicata*; western hemlock, *Tsuga heterophylla*.
2. Native deciduous trees: Big leaf maple, *Acer macrophyllum*; beaked hazelnut, *Corylus cornuta*; black cottonwood, *Populus balsamifera*; bitter cherry, *Prunus emarginata*; black hawthorn, *Crataegus douglasii*; Oregon ash, *Fraxinus latifolia*; Oregon white oak, *Quercus garryana*; Pacific wax-myrtle, *Myrica californica*; red alder, *Alnus rubra*; vine maple, *Acer circinatum*; western crabapple, *Malus fusca*; Hooker’s willow, *Salix hookeriana*; Pacific willow, *Salix lucida*; Scouler’s willow, *Salix scouleriana*; Sitka willow, *Salix sitchensis*.
3. Native understory: Black twinberry, *Lonicera involucrate*; blue elderberry, *Sambucus cerulean*; red elderberry, *Sambucus racemosa*; evergreen huckleberry, *Vaccinium ovatum*; red huckleberry, *Vaccinium parvifolium*; Indian plum, *Oemleria cerasiformis*; oceanspray, *Holodiscus discolor*; Oregon grape, *Mahonia (Berberis) aquifolium*ow/*nervosa*; red osier dogwood, *Cornus sericea*; Pacific ninebark, *Physocarpus capitatus*; Pacific rhododendron, *Rhododendron macrophyllum*; straggly gooseberry, *Ribes divaricatum*; red-flowering currant, *Ribes sanguineum*; bald-hip rose, *Rosa gymnocarpa*; Nootka rose, *Rosa nutkana*; peafruit (swamp) rose, *Rosa pisocarpa*; thimbleberry, *Rubus parviflorus*; salal, *Gaultheria shallon*; serviceberry, *Amelanchier alnifolia*; salmonberry, *Rubus spectabilis*; snowberry, *Symphoricarpos albus*; black twinberry, *Lonicera involucrate*.

Choice of plants for a specific site must consider the hydric, shade, aspect and other conditions. Spacing of plants shall depend upon the presence of existing native vegetation and the size of plants installed. Generally plantings shall result in a vegetation community consisting of no more than fifty percent deciduous trees. Tree planting shall achieve a spacing where new materials are required of ten feet of one-gallon or smaller specimens, fifteen feet with two-gallon specimens; larger sizes shall be spaced according to specimen size. Understory generally should be installed at a spacing of twelve inches for four-inch pots and thirty-six inches for one-gallon specimens.

“Nearshore habitat” means the zone that extends seaward from the marine shoreline to a water depth of approximately twenty meters (sixty-six feet). Nearshore habitat is rich biologically, providing important habitat for a diversity of plant and animal species.

“No net loss” means the maintenance of the aggregate total of ecological functions and values within a geographic area defined in terms of natural processes, such as a watershed or catchment area.

“Off-site mitigation” means to replace critical areas away from the site on which a critical area has been adversely impacted by a regulated activity.

“Ordinary high water mark” means the mark or line on all lakes, rivers, streams and tidal water that will be found by examining the beds 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 (RCW 90.58.030(2)(b)).

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, state agency or local governmental unit, however designated, or Indian Nation or tribe.

“Planned unit development (PUD)” means one or a group of specified uses, such as residential, resort, commercial or industrial, to be planned and constructed as a unit. Zoning or subdivision regulations with respect to lot size, building bulk, etc., may be varied to allow design innovations and special features in exchange for additional and/or superior site amenities or community benefits.

“Pond” means an open body of water, generally equal to or greater than six and six-tenths feet deep, that persists throughout the year and occurs in a depression of land or expanded part of a stream and has less than thirty percent aerial coverage by trees, shrubs, or persistent emergent vegetation. Ponds are generally smaller than lakes. Farm ponds are excluded from this definition. Beaver ponds that are two years old or less are excluded from this definition.

“Potable” means water that is suitable for drinking by the public (Chapter 246-290 WAC).

“Preservation” means actions taken to ensure the permanent protection of existing, ecologically important critical areas and/or buffers that the county has deemed worthy of long-term protection.

“Primary association” means the use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: Comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haul-out; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife (WAC 173-26-020(24)).

“Priority species” means wildlife species of concern due to their population status and their sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.

“Project” means any proposed or existing activity that results in “development,” as defined in this section.

“Project permit” or “project approval” means any land use or environmental permit or approval required by the city of Shelton, but not limited to, building permits, subdivisions, binding site plan, planned unit developments, conditional uses, shoreline substantial development permits, variance, site plan review, permits or approvals authorized by a comprehensive plan or subarea plan.

“Qualified professional” or “qualified consultant” means a person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field, and related work experience and meet the following criteria:

1. A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.

2. A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five years' professional experience related to the subject species/habitat type.
3. A qualified professional for geologically hazardous areas must be a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.
4. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or engineer.

“Recharge” means the process involved in the absorption and addition of water from the unsaturated zone to groundwater.

“Re-establishment” means measures taken to intentionally restore an altered or damaged natural feature or process including:

1. Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their buffers to the functioning condition that existed prior to an unauthorized alteration;
2. Actions performed to re-establish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or other events; and
3. Restoration can include restoration of wetland functions and values on a site where wetlands previously existed, but are no longer present due to lack of water or hydric soils.

“Rehabilitation” means a type of restoration action that restores a critical area to its original form or type such as restoring a wetland to its original hydro-geomorphic class.

“Relative density” is a method for evaluating the density of trees in relation to the theoretical maximum density for trees of the same size and species. It is preferable to a simple density (trees/acre) because it is a more accurate measure of occupied growing space and suppression mortality. Relative density equals the basal area of all trees in the stand divided by the square root of the quadratic mean diameter.

“Repair” or “maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Resident fish” means a fish species that completes all stages of its life cycle within freshwater and frequently within a local area.

Restoration. See “Re-establishment.”

“Rills” means steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

“Riparian corridor” or “riparian zone” means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or and fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

“Riparian vegetation” means vegetation that tolerates and/or requires moist conditions and periodic free-flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilize stream banks, attenuate high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

“Scrub-shrub wetland” means a wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height as the uppermost strata.

“Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

“SEPA” is a commonly used acronym for the State Environmental Policy Act.

“Shellfish” means invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

“Shellfish habitat conservation areas” means all public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology are designated as shellfish habitat conservation areas pursuant to WAC 365-190-080. Any area that is or has been designated as a shellfish

protection district created under Chapter 90.72 RCW is also a shellfish habitat conservation area.

“Shellfish protection district” means a geographic area designated pursuant to RCW Title 90, in response to State Department of Health (DOH) closures or downgrades of a commercial shellfish growing area due to a degradation of water quality as a result of pollution. These areas include the watershed draining to the shellfish beds as part of the shellfish habitat conservation area.

“Shorelands” or “shoreland areas” mean those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter 90.58 RCW.

“Shoreline Management Act” and “shoreline” means the planning and regulatory program established in Chapter 90.58 RCW.

“Shoreline master program” means the local planning and regulatory program established in compliance with Chapter 90.58 RCW, and as hereafter amended.

“Shorelines” means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second (twenty cfs) or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

“Shorelines of statewide significance” means those areas defined in RCW 90.58.030(2)(e).

“Shorelines of the state” means the total of all “shorelines,” as defined in RCW 90.58.030(2)(d), and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030(2)(c).

“Single-family development” means the development of a single-family residence permanently installed and served with utilities on a lot of record.

“Site” means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way, under the applicant’s ownership or control where the proposed project impacts an environmentally critical area.

“Slope” means:

1. Gradient.
2. The inclined surface of any part of the earth’s surface, delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

“Soil” means all unconsolidated materials above bedrock described in the Soil Conservation Service Classification System or by the Unified Soils Classification System.

“Sphagnum bog” means a type of wetland dominated by mosses that form peat. Sphagnum bogs are very acidic, nutrient poor systems, fed by precipitation rather than surface inflow, with specially adapted plant communities.

“Streams” are those areas where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition includes drainage ditches or other artificial watercourses where natural streams existed prior to human alteration, and/or the waterway is used by anadromous or resident salmonid or other fish populations or flows directly into shellfish habitat conservation areas.

“Structure” means a permanent or temporary building or edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite matter, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substantial reconstruction” means the alteration or renovation that results in an expansion of floor area of more than fifty percent, or the expansion of impervious surface by more than fifty percent, or remodeling or renovation that exceeds one hundred percent of the value of the structures or other improvements, excluding plumbing, electrical and mechanical systems. Such substantial reconstruction shall be considered the same as new construction and shall fully comply with the provisions of this code.

“Toe” means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

“Top” means the top of a slope; or in this chapter it may be used as the highest point of contact above a landslide hazard area.

“Unavoidable adverse impact” means adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

“Utilities” means all lines and facilities used to distribute, collect, transmit, or control electrical power, natural gas, petroleum products, information (telecommunications), water, and sewage.

“Volcanic hazard areas” means geologically hazardous areas that are subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

“Watershed” means a geographic region within which water drains into a particular river, stream or body of water.

“Watershed improvement district” means a special district established pursuant to Chapter 85.38 RCW.

“Well head protection area” means the area (surface and subsurface) managed to protect groundwater based public water supplies.

“Wet meadow” means palustrine emergent wetlands, typically having disturbed soils, vegetation, or hydrology.

“Wet season” means the period generally between November 1st and March 30th of most years when soils are wet and prone to instability. The specific beginning and end of the wet season can vary from year to year depending on weather conditions.

“Wetland” means areas defined pursuant to RCW 36.70A.030 that are inundated or saturated by surface water or groundwater 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands include those artificial wetlands intentionally created to mitigate wetland impacts.

“Wetland buffer” means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and ecological stability of the wetland.

“Wetland class” means the general appearance of the wetland based on the dominant vegetative life form or the physiography and composition of the substrate. Multiple classes can exist in a single wetland. Types of wetland classes include forest, scrub/shrub, emergent, and open water.

“Wetland delineation” means the precise determination of wetland boundaries in the field according to the application of specific methodology as described in the 1997 Washington State Wetland Delineation Manual or 1987 Edition, as amended, Corps of Engineers Wetlands Delineation Manual and the mapping thereof.

“Wetland edge” means the boundary of a wetland as delineated based on the definitions contained in this chapter.

Wetland Enhancement. See “Enhancement.”

“Wetland mitigation bank” means a site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

“Wetland mosaic” means two or more wetlands that are less than one hundred feet apart such that within the outer boundaries of the area delineated as wetland and the associated upland between the wetlands more than fifty percent of the total area is comprised of wetlands and open water as defined by the OHWM.

Wetland Restoration. See “Mitigation” and “Re-establishment.”

“Windthrow” means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

“Wood waste” means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, log fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.040 Critical area maps.**

Those documents and maps which are referenced in this chapter for designation of critical areas are resources for the identification of the probable location, extent and classification of critical areas. Such information may be used by the director as a basis for applying the

provisions of this code, including requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation, the latter shall prevail. Preparation and maintenance of such documents and maps shall not create liability on the part of the city of Shelton or any officer or employee thereof for any damages that result from reliance on said maps. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.050 Multiple designations.**

Where any parcel may be designated as having more than one critical area designation, the development standards for each category of critical area must be met. Where there is conflict between development standards of critical area categories, the most restrictive standards shall apply. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.060 SEPA.**

This chapter is an officially adopted land use policy of the city of Shelton and shall provide an additional basis for analyzing development proposals pursuant to Chapter 43.21C RCW. Adopted critical area maps, pursuant to Section [21.64.040](#), are declared sensitive areas under provisions of WAC 197-11-908 and Chapter 21.20 of this code. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.070 Permitted uses.**

A. Uses permitted on properties classified as critical areas shall be the same as those permitted in the zoning and shoreline master program district which applies to the subject property, subject to the specific provisions of this code where more restrictive. Each use shall be evaluated in accordance with the review process required for the proposed use in the underlying zone in conjunction with the requirements of this chapter, as well as state and federal regulations.

B. Altering critical areas and/or buffers related to wetlands, streams, and geological hazard areas is prohibited except when:

1. Alteration is approved pursuant to the reasonable use or variance provisions of Section [21.64.083](#);
2. Alteration is necessary to accommodate an essential public facility or public utility where no feasible alternative location will accommodate the facility and the facility is located, designed, and constructed to minimize, mitigate and where possible avoid critical area disturbance to the maximum extent feasible;
3. Alteration is part of an essential element of an activity allowed by this chapter and all feasible measures to avoid and minimize impacts have been employed. Such feasible measures shall include but not be limited to clustering where permitted by zoning and as appropriate to protect critical areas and buffers. The purposes of

clustering shall be to minimize adverse effects of development on critical area functions and values, minimize land clearing, maintain soil stability, preserve native vegetation, maintain hydrology, and mitigate risk to life and property; or

4. Alteration is associated with an activity enumerated in Section [21.64.071](#) that has negligible impact on critical areas.

C. Land that is located wholly within a critical area or buffer may not be subdivided for purposes of creating buildable parcels. Land that is located partially within a critical area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the critical area or buffer with provision for drainage, erosion control, vegetation maintenance and related features that will not adversely affect the critical area or its buffer. (Ord. 1689-1206 § 1 (part), 2007)

### **21.64.071 Allowed activities.**

The following actions and activities are allowed in critical areas as actions with negligible effects on the resource and ecological functions, subject to the standards and criteria provided, and subject to review and approval processes.

A. Emergency actions are those activities necessary to prevent an immediate threat to life, to public health, safety, or welfare, or that pose an immediate risk of damage to private structures or improvements and that require remedial or preventative action in a time frame too short to allow for compliance with the procedural requirements of this chapter.

1. Emergency actions that create an impact on a critical area or its buffer shall be limited to those actions that are required to address the emergency and generally are limited to the actions necessary to remove the immediate threat. Additional actions to permanently address a deficiency generally do not qualify as emergency actions and require full compliance with the procedural requirements of this chapter. Emergency actions also must be carried out in a manner that has the least feasible impact on the critical area or its buffer.

2. The person or agency undertaking emergency action shall notify the director within one working day following commencement of the emergency activity. Within fourteen days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then the enforcement provisions of Section [21.64.090](#) shall apply.

3. After the emergency, the person or agency undertaking the action shall submit a critical area report to assess effects on critical areas and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers

resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for all approvals required by this chapter. Restoration and/or mitigation activities must be initiated within sixty days of the date of the emergency, unless an extension is approved by the director, and completed in a timely manner.

B. Maintenance, operation and/or repair of existing rights-of-way, trails, roads, utilities, buildings and other facilities within critical areas and buffers; provided, that the activity does not further alter, impact, or encroach upon the sensitive area or buffer or further affect the functions of sensitive areas, and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair; and provided further, that:

1. Prior to undertaking such actions, the applicant shall submit a written description of the maintenance activity to the director with all of the following general information:

- a. Type, timing, frequency and sequence of maintenance activity to be conducted;
- b. Type of equipment to be used (hand or mechanical);
- c. Manner in which the equipment will be used; and
- d. Best management practices to be used.

C. Maintenance of existing, lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code; provided, that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.

D. Maintenance, repair or replacement of an existing nonconforming structure pursuant to Section [21.64.088](#) that does not further alter or increase the impact to the sensitive area or buffer and results in no increased risk to life or property as a result of the proposed modification or replacement.

E. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the existing improved portion of the public right-of-way (road surface, shoulder, sidewalks, and fill slopes) or the improved portion of city-authorized private roadway; provided, that no fill or discharge occurs outside the existing improved area and

with appropriate best management practices to control erosion, sedimentation and other potential impacts. Excluded is work within a water body or wetland, including but not limited to culverts or bridge replacement or construction.

F. Utility projects that have minor or short-duration impacts to critical areas and buffers, as determined by the director in accordance with the criteria below, and which do not significantly impact the functions or values of a sensitive area(s); provided, that such projects are constructed with best management practices and appropriate restoration measures are provided. These activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

1. There is no practical alternative to the proposed activity with less impact on sensitive areas;
2. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
3. The activity involves disturbance of less than seventy-five square feet of the sensitive area and/or buffer.

G. Low impact activities such as hiking, canoeing, nature study, photography, fishing, education or scientific research.

H. Public and private pedestrian trails, provided they are subject to the following:

1. The trail surface shall not exceed four feet in width;
2. The trail surface shall consist of gravel or pervious materials, including boardwalks;
3. The trail shall meet all other city requirements including water quality standards;
4. Sensitive area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
5. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

I. The following vegetation removal activities:

1. The removal of the noxious weed species designated by Washington State or the local weed control authority, and the following species, with hand labor and light equipment:

- a. English ivy (*Hedera helix*);
- b. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
- c. Evergreen blackberry (*Rubus laciniatus*);

2. The removal of hazard trees from sensitive areas and buffers that are posing a threat to public safety, or an imminent risk of damage to a permanent structure; provided, that:

- a. The applicant submits a report from a certified arborist or professional forester that documents the hazard; provided, that the director may waive this requirement for any trees that are clearly dead, or dying, and provides a replanting schedule for the replacement trees;
- b. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
- c. If native vegetation is cut or removed from a sensitive area or buffer, it shall be left within the sensitive area or buffer where practicable unless removal is warranted due to safety considerations, the presence of an established disease infestation or other hazard, or because of access or maintenance needs if the area is a utility or access right-of-way;
- d. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (two-to-one) within one year in accordance with an approved restoration plan. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of three feet in height for evergreen trees as measured from the top of the root ball; provided, that the director may allow smaller replacement trees with a higher replacement ratio;
- e. Hazard trees that constitute an emergency may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within fourteen days following such action, the landowner shall submit a

restoration plan that demonstrates compliance with the provisions of this chapter;

3. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

J. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads, removal of native trees or shrubs, or displacement of more than five cubic yards of material. Investigations involving displacement of more than five cubic yards of material, including geotechnical soil borings, groundwater monitoring wells, percolation tests, and similar activities shall require submittal of specific plans and restoration plans. In every case, impacts to the sensitive area shall be minimized and disturbed areas shall be immediately restored.

K. Forest practices governed by a valid forest practices permit granted by the Washington State Department of Natural Resources, except where:

1. The lands have been or are proposed to be converted under a conversion option harvest plan to a use other than commercial forest product production as provided in RCW 76.09.050 and 76.09.240; or

2. On lands which have been platted after January 1, 1960, as provided in RCW 76.09.050 and 76.09.240.

L. Activities undertaken to comply with a United States Environmental Protection Agency superfund related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act that specifically preempts local regulations in the findings of the order.

M. Project and facilities for restoration and enhancement of ecological functions of critical areas and related resources may be allowed within critical areas and buffers, upon approval of a restoration and mitigation plan in accordance with the provisions of this chapter, or for restoration or enhancement programs in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.080 Preliminary consultation.**

During the application completeness review period for any subdivision of property, short plat, boundary line adjustment, site plan review, building permit, business license, or any activity requiring city review and/or approval, the property which is the subject of such permit or approval process shall be reviewed by the city for the purpose of identifying the possible presence of a critical area on or adjacent to such property. Where appropriate the city will conduct a preliminary site inspection to confirm the presence of a potential critical area. Within fifteen city business days of the receipt of any such application, the city shall notify the applicant in writing of the possible presence of a critical area and provide consultation, if requested, regarding additional data requirements or methods of compliance with this chapter, including submittal of a critical area study. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.081 Permit processing.**

A. The approval or denial of an activity or modification within a critical area shall be an administrative action of the planning director for actions requiring only a building permit or other permit action requiring only ministerial action as defined by relevant city codes. The review process will be integrated with the review of the underlying permit. Public notice is required only if required by the underlying permit.

B. If a project requires another permitting action by the city which requires a public hearing consideration of critical areas will be integrated with the underlying permitting process.

C. The director shall perform a critical area review for any application for a development proposal on a site that includes one or more critical areas or would affect critical areas on adjacent lands, unless otherwise provided in this chapter. As part of all development applications, the director shall verify the information submitted by the applicant to:

1. Confirm the nature and type of the critical areas and associated buffers;
2. Evaluate the need for critical area studies or the adequacy of any such studies submitted with the application;
3. Determine whether the development proposal is consistent with these critical area regulations;
4. Determine whether proposed alterations to critical areas are necessary;
5. Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this overlay district.

D. Compliance with the provisions of this chapter does not necessarily constitute compliance with other regulations and permit requirements. Permit applicants are responsible for complying with all federal, state, county, and local regulations that may pertain to a proposed development; provided, that conditions imposed by the city shall be coordinated with the conditions imposed by other agencies to the extent feasible. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.082 Critical area studies.**

An applicant for a development proposal that includes, or is adjacent to, or could adversely impact critical areas or buffers shall submit such studies prepared by a qualified professional as are required by the director to adequately evaluate the proposal and all probable impacts. The study shall be prepared by a qualified professional as defined in Section [21.64.030](#) and paid for by the applicant.

A. Waivers. The director may waive the requirement for a critical area study if there is a substantial showing that:

1. The boundaries of the critical area and associated buffers can be reliably determined without a technical study;
2. There will be no alteration of the critical area or required buffer;
3. The development proposal will not impact critical areas in a manner contrary to the goals, purposes, objectives and requirements of this chapter;
4. The criteria and standards required by this chapter are met.

B. The contents of the critical area study are specified in the following sections of this chapter. The director may require such supplements or amendments to the study as necessary to develop a reasonably comprehensive understanding of the site conditions, potential impacts, and required mitigation.

C. Independent Review. Based on a review of the information contained in the critical area study and the conditions of the development proposal site, the director may require independent review of any such study. This independent review shall be performed by qualified professional selected by the city and paid for by the applicant. The purpose of such independent review is to assist the city in evaluating the effects on critical areas that may be caused by a development proposal and to facilitate the decision making process. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.083 Reasonable use.**

A. If the application of the regulations in this chapter would deny all reasonable use of the property, development may be allowed consistent with the general purposes of these regulations and the public interest.

B. Reasonable Use Standards. To qualify as a reasonable use, the decision maker must find that proposal is consistent with all of the following criteria:

1. There is no portion of the site under contiguous ownership not subject to critical area regulations where the provisions of this chapter allow reasonable economic use, including agricultural use, forestry use or continuation of legal nonconforming uses;
2. There is no feasible on-site alternative to the proposed use or activities that will provide reasonable economic use, including location on any contiguous parcel that has been under the ownership or control of the applicant since the effective date of this chapter, other allowed uses, continuation of legal nonconforming uses, reduction in size, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to critical areas and associated buffers;
3. The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and/or creating the condition of lack of use after the effective date of this chapter;
4. All reasonable methods, to avoid or reduce adverse effects on critical area functions and values have been employed, including locating activities as far as possible from critical areas and design that will result in the minimum alteration of critical areas and associated buffers, existing topography, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions. Where both critical areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the critical area;
5. The project includes compensatory mitigation for unavoidable impacts to critical area and buffers in accordance with the mitigation requirements of this chapter;
6. The proposed activities will not result in adverse effects on endangered or threatened species as listed by the federal government or the state of Washington, or be inconsistent with an adopted recovery plan;
7. The proposed activities will not result in damage to nearby public or private property and no threat to the health or safety of people on or off the site;

8. The proposed activities will not lead to degradation of groundwater or surface water quality and will comply with all state, local and federal laws, including those related sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal.

C. Nonconforming single-family residential lots meeting the criteria of Section [21.64.088\(F\)](#) shall not be required to meet the criteria of subsections (B)(1), (2) and (5) of this section.

D. An application for a critical areas reasonable use exception shall follow the procedures for a special use permit review pursuant to Chapter 20.46, except that approvals in accordance with subsection C of this section shall be approved by the director in accordance with the approval procedure for the underlying permit.

E. An application for variance to provisions of this code may be considered in accordance with variance provisions in Chapter 20.50. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.084 Density credits.**

A. Critical areas and their buffers may be used in the calculation of allowed density to the extent provided by the zoning code and shoreline master program.

B. Full density as allowed by underlying zoning and minimum residential density goals may not be attained on specific parcels where critical areas impose inherent limitations on development intensity. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.085 Notice on title.**

A. The owner of any property containing critical areas on which a development proposal is approved shall file with the records division of Mason County a notice in a format approved by the director and provide a copy of the filed notice to the Shelton planning department, unless notice is provided on a plat as provided in subsection B of this section. The notice shall:

1. State the presence of the critical area and/or buffer area on the property, and identify that there are limitations and restrictions on uses and actions in or affecting the critical area and/or buffer imposed by this code and by the provisions of the critical areas code and specific conditions of approval. The notice shall indicate that the restrictions run with the land and may be altered only in conjunction with amendment of this chapter or amendment of specific conditions of approval as provided by this chapter.

2. Provide that management of the critical area is required to include, but is not limited to, maintenance or replacement of vegetation to assure the long-term viability of a community of native vegetation, control of invasive plant control, and fulfillment of other conditions of approval.

3. Provide for the right of the public, and specifically the city of Shelton, to enforce the terms of the restrictions through civil infraction or other legal address.

4. If a site plan has been approved indicating the extent of the critical area and buffer and permit conditions, a copy of the site plan together with relevant survey information and permit conditions shall be included in the notice filed.

B. Restrictions on use and development of critical areas buffers and setback areas on plats and short plats shall include the information in subsection A of this section, shall designate the party responsible for maintenance of the critical area, if other than the property owner, and shall place critical areas in tracts or easements as provided below:

1. Designation of separate tracts for critical areas and buffers shall be the preferred method of designation and protection of critical areas in plats to provide for integrated management of the critical area and buffer separately from lots. The tract may be:

a. Held in an undivided interest by each owner of a building lot within the development, the ownership of which shall pass with the ownership of the lot. Responsibility for meeting all requirements of preservation and management shall be designated to an incorporated homeowner's association or other legal entity that assures the ownership and protection of the critical area.

b. Dedicated to the city of Shelton or other governmental entity qualified to own and manage open space.

c. Conveyed to a nonprofit land trust, provided the land may not be thereafter transferred to a private party; and provided, that if the land trust is dissolved or otherwise fails to perform its functions, ownership and responsibility for management shall devolve to an undivided interest by each owner of a building lot within the development, as provided in subsection (B)(1)(a) of this section.

2. The director may allow a critical area and buffer to be placed within a protective easement on a parcel with the responsibility for meeting all requirements of preservation and management placed on the owner of the parcel over which the easement is placed. This means of designation shall be used in cases where the size and the ecological functions of the critical area do not require coordinated management or where formation of an incorporated homeowner's association or other legal entity for management is found to be impractical because of the limited number of lots, or where ownership and management by the city, a qualified special district or a land trust is found to be impractical. This alternative generally will be limited to critical areas and buffers of less than twenty thousand square feet and

developments of fewer than ten parcels, or commercial or multifamily development.

C. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a right-of-way or easement for which they do not have fee-simple title.

D. The applicant shall submit proof that the notice, dedication or easement has been filed for public record before the city shall approve any final plat or final site plan for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be a violation of this section. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.086 Building setbacks.**

A. Buildings and other structures shall be set back a sufficient distance to assure that disturbance to sensitive area vegetation and soils is avoided during construction, maintenance and use.

B. Buildings and other structures shall be set back a distance of ten feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required; provided, that the director may modify the building setback based on specific development plans that document that construction techniques, maintenance needs and use will not disturb critical areas or buffer.

C. If slopes adjacent to the buffer for wetlands or water bodies exceed fifteen percent, including slopes created by grading, a swale sufficient to intercept surface water movement shall be installed outside the edge of the buffer.

D. The following facilities and uses are allowed in the building setback:

1. Landscaping, including rockeries not over forty-two inches high, provided construction does not alter the buffer or critical area;
2. Uncovered decks, platforms, porches and similar projections not over forty-two inches high;
3. Building eaves, cornices, chimneys and similar projections in compliance with Chapter 20.36;
4. Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to applicable water quality standards and that construction equipment does not enter the buffer or critical area;

5. Clearing and grading consisting of not over forty-two inches of cut or fill. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.087 Mitigation.**

A. Mitigation measures shall be implemented to protect critical areas and buffers from alterations occurring on all or portions of a site being developed. The mitigation measures required below shall be implemented in conjunction with other applicable mitigation requirements outlined in the subsequent sections of this chapter.

B. For purposes of this chapter, “mitigation” means the use of the following actions that are listed in descending order of preference:

1. Avoiding the impact all together by not taking a certain action or parts of an action;
2. 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 impact;
3. Rectifying the impact by repairing, rehabilitating or restoring the critical areas;
4. Reducing or eliminating the impact over time by prevention and maintenance operations;
5. Compensating for the impact by replacing, enhancing or providing substitute areas and environments and replacing the ecological processes and functions of the resource;
6. Monitoring the impact and taking appropriate corrective measures.

C. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success. Off-site mitigation is preferred close as possible to the impact area and within the same watershed sub-basin as the permitted alteration; provided, that off-site mitigation may occur within the watershed of a stream flowing into Oakland Bay or Hammersley Inlet and within WRIA 14 upon demonstration through a watershed- or landscape-based analysis that mitigation within an alternative sub-basin of the watershed would have greater ecological benefit. Off-site mitigation sites preference shall be given to sites and restoration activities identified in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington

Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290.

D. Mitigation Plan. A mitigation plan shall be required for the design, implementation, maintenance and monitoring of mitigation. A plan shall provide the following, in addition to criteria for the specific critical areas provided below for individual critical areas:

1. A description and evaluation of any critical areas that could be altered by the proposed development, including evaluation of ecological processes and functions based on best available science and detailed field assessment of the affected resources;
2. A description and scaled drawings of the proposed mitigation activities including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments;
3. A description of the ecological functions and values that the proposed alteration may affect and of the specific ecological functions and values the proposed mitigation area(s) shall provide;
4. A description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
5. Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met;
6. A description of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met;
7. Cost estimates for the installation of the mitigation program, monitoring, and maintenance as well as for corrective action if mitigation performance standards are not met.

E. A performance assurance shall be provided to guarantee installation, monitoring and performance of mitigation actions.

1. Performance Surety. The applicant shall post a cash performance bond, letter of credit, or other security acceptable to the city of Shelton in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted actions or

the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs. The conditions of the surety shall be consistent with the purposes of this chapter and the conditions to be fulfilled. In the event of a breach of any condition of any such bond, the city of Shelton may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. The city of Shelton shall release the bond upon determining that:

- a. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this chapter;
- b. Upon the posting by the applicant of a maintenance surety.

2. Maintenance Surety. The city of Shelton shall require the holder of a development permit issued pursuant to this chapter to post a cash performance bond, letter of credit, or other security acceptable to the city of Shelton in an amount and with surety and conditions sufficient to guarantee that structures, improvements and mitigation required by the permit of by this chapter perform satisfactorily, generally for a period of five years after they have been completed. The city of Shelton shall release the maintenance bond upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the permit review process. The maintenance bond applicable to a compensation project shall not be released until the city of Shelton determines that performance standards established for evaluating the effect and success of the project have been met. The director may return up to fifty percent of the surety following the first year of monitoring; provided, that the year one performance standards are met and the risk of subsequent failure is considered low.

3. Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.

4. Public development proposals may be relieved from having to comply with the surety requirements of this section if public funds have been committed through a budget process with final approval for mitigation, maintenance, or monitoring.

F. Mitigation Banking. The city may approve mitigation banking as a form of compensatory mitigation for wetlands and fish and wildlife habitat conservation area impacts when the provisions of this chapter require mitigation and when it is clearly demonstrated that the use of a mitigation bank will provide equivalent or greater replacement of critical area functions and values when compared to conventional on-site mitigation; provided, that all of the following criteria are met:

1. Mitigation banks shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the city's comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

2. The mitigation bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule, Chapter 173-700 WAC or as revised, and Chapter 90.84 RCW and the federal mitigation banking guidelines as outlined in the Federal Register, Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.

3. Preference shall be given to mitigation banks that implement restoration actions that have been identified in an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the salmon recovery board habitat project list or by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.088 Nonconforming development.**

The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this program:

A. Nonconforming uses shall be governed in accordance with the provisions of the zoning code in Chapter 20.42 or in accordance with the shoreline master program in Section VII.Q, subject to additional provisions in this chapter. Such use may not be altered or expanded except in compliance with standards provided in said codes.

B. Nonconforming structures, facilities and development damaged by fire or other cause shall be governed in accordance with the provisions of the zoning code in Chapter 20.42 or in accordance with the shoreline master program in Section VII.Q, subject to additional provisions in this chapter.

C. Minor alteration or renovation shall be defined as alteration or renovation of any structure, or associated improvements, within a critical area or buffer that results in an expansion of floor area of less than five hundred square feet, or ten percent, whichever is less, or the expansion of impervious surface by less than one thousand square feet, or ten percent, whichever is less; or remodeling or renovation that is less than fifty percent of the value of the structure or improvements, excluding plumbing, electrical and mechanical systems. Minor alteration may require compliance with specific performance standards of this code.

D. Major alteration or renovation shall be defined as the alteration or renovation of any structure, or associated improvements, within a critical area that results in an expansion of floor area of five hundred square feet or more, or more than ten percent and less than fifty percent, whichever is greater; or the expansion of impervious surface by more than one thousand square feet, or of more than ten percent and less than fifty percent, whichever is greater; or remodeling or renovation that is greater than fifty percent and less than one hundred percent of the value of the structures or improvements excluding plumbing, electrical and mechanical systems. Major alteration may require compliance with specific performance standards of this code.

E. Substantial reconstruction shall be defined as the alteration or renovation that results in an expansion of floor area of more than fifty percent, or the expansion of impervious surface by more than fifty percent, or remodeling or renovation that exceeds one hundred percent of the value of the structures or other improvements, excluding plumbing and mechanical systems. Such substantial reconstruction shall be considered the same as new construction and shall fully comply with the provisions of this code.

F. Nonconforming single-family residential lots within a subdivision filed within five years previous to the adoption of provisions of this code that render them nonconforming in compliance with RCW 58.17.170, or other lots or parcels under contiguous ownership and less than twenty thousand square feet in size that are not subject to landslide hazard areas and associated buffers, shall be subject to the following standards, in conformance with the provisions for a reasonable use exception in Section [21.64.083](#) and in accordance with the following criteria:

1. Nonconforming lots with an area of two thousand square feet or more available for a building area unrestricted by critical areas or buffers shall comply with the standards of this chapter. The “building area” means the entire area that will be disturbed to construct a structure containing an allowed use and normal appurtenances, including parking and landscaping.
2. Nonconforming lots that do not meet the requirement of subsection (F)(1) of this section shall provide the maximum setback and buffer dimension feasible while

providing for a building envelope of at least two thousand square feet on the lot. The building area shall generally be located on the portion of the lot farthest from the required critical area or buffer and/or the least sensitive portion of the lot.

3. The area between the structure and the critical area shall be maintained or planted in native trees and understory vegetation. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.089 Administrative rules.**

The director shall have the authority to adopt administrative rules as deemed necessary consistent with the provisions of this chapter and that are necessary for the implementation of critical area regulations. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.090 Enforcement.**

A. The director or its designee shall have a right to enter upon any property at reasonable times and to make such inspections as are necessary to determine compliance with the provisions of this chapter or the conditions imposed pursuant to this chapter. The city shall make a reasonable effort to locate the owner or persons in charge and notify them of the times and purposes of required entry.

B. The director is further authorized to take such actions as may be necessary to enforce the provisions of this chapter including but not limited to the civil infraction, abatement and criminal penalties provided in Chapter 20.54.

C. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.091 Appeals.**

A. An aggrieved party may appeal a decision of the city of Shelton granting or denying a permit that is subject to a public notice requirement pursuant to Title 17, 19, or 20 by filing a notice of appeal as provided in the relevant code and serving notice to the city and any other party to the decision within the time period for appeals provided in the relevant code. The notice of appeal shall contain the following:

1. The name and address of the appealing party;
2. The name and address of counsel of the appellant, if any;
3. Identification of the city's decision at issue, together with a duplicate copy, summary, or brief description of the city's decision;
4. Identification of persons who were parties to the city's decision;

5. Facts to demonstrate that the appellant is entitled to obtain review;
6. The appellant's reasons for believing that relief should be granted; and
7. The request for relief, specifying the type and extent of relief requested.

B. Upon the filing of a timely notice of appeal in compliance with the provisions of subsection A of this section, the appeal decision maker designated in the relevant code shall conduct an open record review hearing of the city's decision, except for permits that have previously been the subject of an open record public hearing, in which case a closed record appeal shall be held. No appeal shall be provided of actions for which the final decision maker is the city commission. The provisions of Section [2.36.160](#) and Title 17 shall apply to the appeal except that the director's interpretation of any of the provisions of this chapter and discretionary decisions shall be given substantial weight.

C. Within ten working days of the conclusion of the hearing, the appeal decision maker shall render a written decision which shall contain findings of fact and conclusions of law supporting the examiner's decision. The decision shall:

1. Affirm the decision; or
2. Reverse the decision and remand said decision back to the appropriate decision maker for further consideration or review.

D. The provisions of Sections [2.36.180](#) through [2.36.220](#) shall apply to the decision on the appeal. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.095 Frequently flooded areas.**

"Frequently flooded areas" are those same areas regulated by the Flood Damage Prevention Ordinance, Title 18 of this code, and are protected through regulations provided in that title. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.100 Wetland designation.**

A. Wetlands are those areas that are inundated or saturated by surface or groundwater 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. Swamps, marshes, bogs, and wet meadows/pastures are examples of wetland. Some riparian areas adjacent to streams are also wetland.

B. Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380. Unless otherwise provided for in this chapter, all areas within the city meeting the criteria in the Washington State Wetland Identification and Delineation

Manual (Ecology Publication 96-94) regardless of any formal identification are hereby designated critical areas and are subject to the provisions of this chapter.

C. The approximate location and extent of known or suspected wetlands are shown on the city's critical area maps. Other, unmapped wetlands may exist within the city. These maps are to be used as a guide and do not provide a definitive critical area designation.

D. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication No. 04-06-025). These categories are generally defined as follows:

1. Category I Wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of 70 points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.

2. Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of between fifty-one and sixty-nine points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.

3. Category III Wetlands. Category III wetlands have important resource value as indicated by a rating system score of between thirty and fifty points.

4. Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than thirty points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.120 Wetland review and reporting requirements.**

A. The director shall require a site evaluation (field investigation) by a qualified professional to determine whether or not a regulated wetland is present and if so, its relative location in relation to the proposed project area on site. If the director determines that a wetland is more likely than not present, the director shall require a critical area study. If no regulated wetlands are present, then wetland review will be considered complete.

B. A critical area study (wetland assessment study) describes the characteristics of the subject property and adjacent areas. The assessment shall be completed pursuant to Section [21.64.082](#) and include the following:

1. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
2. Determination of the wetland category and wetland buffers;
3. Field identification and delineation of wetland boundaries. For on-site wetlands, the assessment shall include the dominant and subdominant plant species; soil type, color and texture; sources of hydrology (patterns of surface and subsurface water movement, precipitation, etc.), topography, and other pertinent information;
4. Identification of critical areas and buffers within three hundred feet of the site and an estimate of the approximate acreage for each. The assessment of off-site wetlands shall be based on available information and shall not require accessing off-site properties;
5. A detailed description of the effects of the proposed development on wetland and buffer function and value, including the area of direct wetland disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light or human intrusion;
6. A mitigation plan, if applicable. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.130 Wetland buffers.**

A. Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category. Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided.

B. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values.

When a buffer lacks adequate vegetation, the director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.

C. Buffer Dimensions.

Wetland Category	Low Wildlife Function (less than 20 points)	Moderate Wildlife Function (20—26 points)	High Wildlife Function (27 or more points)
	Buffer Width (feet)		
Category IV	50	50	50 <sup>1</sup>
Category III	80	100	150 <sup>1</sup>
Category II	100	150	See Table in D
Category I	100	150	See Table in D

<sup>1</sup> Habitat scores over twenty-six points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating of thirty or less.

D. Buffers for Wetlands with High Wildlife Function (Twenty-Seven Points or More).

Wetland Category	Points for Habitat from Wetland Rating Form									
	27	28	29	30	31	32	33	34	35	36
Category I and II	165	180	195	215	225	225	225	225	225	225

E. Where lands within the wetland buffer have an average continuous slope of twenty percent to thirty-five percent, and the required buffer width is less than one hundred feet, the buffer shall extend to a thirty percent greater dimension. In all cases, where slopes within the buffers exceed 35 percent, the buffer shall extend twenty-five feet beyond the top of the bank of the sloping area or, if a buffer associated with a geological hazard is present, to whichever extent is greater.

F. Where other critical areas defined in this chapter fall within the wetland buffer, the buffer dimension shall be the most expansive of the buffers applicable to any applicable critical area. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.135 Provisions for small isolated wetlands.**

A. All wetlands shall be regulated regardless of size; provided, that the director shall assure that preservation of isolated wetlands and associated buffers of less than ten thousand square feet of combined wetland and buffer shall maintain effective wetland functions, or be mitigated as provided below.

B. Wetlands and associated buffers of less than one thousand square feet may be displaced when the wetland meets all of the following criteria, as documented in a wetland critical area study.

1. The wetland is not associated with a riparian corridor;
2. The wetland is not part of a wetland mosaic;
3. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; and
4. Impacts of displaced wetlands are mitigated pursuant to Sections [21.64.087](#) and [21.64.143](#).

C. Category III and IV wetlands between one thousand and four thousand square feet may be displaced without meeting the provisions of Section [21.64.087](#) regarding avoidance, minimization, rectification, and reducing and eliminating the impact over time; provided, that the criteria in subsection B of this section are met and the wetland does not score twenty points or greater for habitat in the 2004 Western Washington Rating System.

D. Preservation of isolated wetlands with a total area of the combined wetland and buffer of ten thousand square feet or less shall meet the following provisions, or if the said provisions cannot be demonstrated, as specified by the director, they may be displaced and shall be mitigated as specified in Section [21.64.143](#).

1. Depressional wetlands recharged only by precipitation, interflow or groundwater shall be assured a source of recharge to maintain its hydrologic character through stormwater infiltration, or other means.
2. Wetlands that have a potential to reduce flooding or erosion or has the potential and opportunity to maintain or improve water quality as evidenced by a score of at least ten points on the applicable criteria of the wetland rating form for Western Washington shall maintain a hydraulic connection to surface water that maintains effective wetland function for flood or erosion reduction or water quality and does not substantially alter the existing hydroperiod of the wetland.
3. Wetlands that achieve a score of at least twenty points on the habitat functions criteria of the wetland rating form for Western Washington shall maintain a connection to a linear corridor maintained as a stream buffer, a buffer associated with a geological hazard or other designated open space buffer sufficient to allow movement of terrestrial wildlife to and from the wetland and buffer complex without interruption by roads, paved areas or buildings within fifty feet. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.140 Wetland buffer averaging.**

The permit approval authority may average wetland buffer widths on a case-by-case basis when the applicant demonstrates through a critical area study to the satisfaction of the director that all the following criteria are met:

A. Averaging to improve wetland protection may be permitted when all of the following conditions are met as demonstrated by a wetland assessment study pursuant to Section [21.64.120](#):

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area;
2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;
3. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
4. The buffer at its narrowest point is never less than three-quarters of the required width.

B. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met as demonstrated by a wetland assessment study pursuant to Section [21.64.120](#):

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
2. The averaged buffer will not result in degradation of the wetland’s functions and values;
3. The total buffer area after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
4. The buffer at its narrowest point is never less than three-quarters of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

C. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of wetland functions and values in conjunction with a wetland assessment study and mitigation plan. The specific measures that shall be implemented include, but are not limited to, those in Section [21.64.147](#). (Ord. 1689-1206 § 1 (part), 2007)

**21.64.141 Wetland buffer increase.**

The permit approval authority may increase the width of the standard buffer width on a case-by-case basis, based on a critical area study, when a larger buffer is required to protect critical habitats as outlined in Section [21.64.300](#), or such increase is necessary to:

A. Protect the function and value of that wetland from proximity impacts of adjacent land use, including noise, light and other disturbance, not sufficiently limited by buffers provided above;

B. Maintain viable populations of priority species of fish and wildlife; or

C. Protect wetlands or other critical areas from landslides, erosion or other hazards. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.142 Allowed activities in wetlands and buffers.**

The following uses and activities may be allowed in wetlands or buffer areas subject to the priorities, protection, and mitigation requirements of this section:

A. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and not including transformers or other facilities containing hazardous substances, may be located in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetlands.

2. The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

3. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation.

4. Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.

5. Impacts on wetland functions are mitigated in accordance with Section [21.64.143](#).

B. Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.

2. Facilities parallel to the wetland edge are located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.

3. Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement on elevated structures as an alternative to fill, where feasible.

4. Impacts on wetland functions are mitigated in accordance with Section [21.64.143](#).

C. Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, pursuant to the criteria in subsection B of this section; provided, that alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

D. Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions, and subject to the provisions for nonconforming use and facilities.

E. Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category II, III, or IV wetland buffer on a case-by-case basis if the following are met:

1. Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside

the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer.

2. The discharge is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.

F. On-site sewage disposal system conventional drainfields may be permitted in the outer twenty-five percent of a Category II, III and IV wetland buffer when accessory to an approved residential structure, if the following conditions are met:

1. It is not feasible to connect to a public sanitary sewer system;
2. There is no reasonable location outside the wetland buffer based on analysis of conditions within the contiguous property owned by the applicant;
3. The facility is located as far from the wetland edge as possible and is designed and constructed in a manner that minimizes disturbance of soils and vegetation, and no trees in excess of four inches in diameter are removed or disturbed;
4. Clearing, grading, and excavation activities are limited to the minimum necessary and the area is restored following installation.

G. Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted within a Category II, III, or IV wetlands or their buffers and within a Category I wetland buffer if the following criteria are met:

1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalks;
2. The trail or facility is located in the outer fifty percent of the buffer area unless a location closer to the wetland edge or within the wetland is required for interpretive purposes;
3. The trail or facility is constructed and maintained in a manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill;
4. Wetland mitigation in accordance with Section [21.64.143](#). (Ord. 1689-1206 § 1 (part), 2007)

**21.64.143 Wetland mitigation.**

Activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with Section [21.64.087](#) and this section.

A. Wetland Alterations. Compensatory mitigation shall be provided for all wetland alteration and shall re-establish, create, rehabilitate, enhance, and/or preserve equivalent wetland functions and values. Compensation for wetland alterations shall occur in the following order of preference:

1. Re-establishing wetlands on upland sites that were formerly wetlands.
2. Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.
3. Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
4. Enhancing significantly degraded wetlands.
5. Preserving Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the director determines that the overall mitigation package fully replaces the functions and values lost due to development.

B. Mitigation Ratios. Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in the table below; provided, that replacement ratio for preservation shall be determined by the director on a case-by-case basis. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

**Table 21.64.143—Wetland Mitigation Type and Replacement Ratio\***

<b>Wetland Category</b>	<b>Creation</b>	<b>Re-establishment</b>	<b>Rehabilitation</b>	<b>Enhancement Only</b>
Category IV	1.5:1	1.5:1	2:1	3:1
Category III	2:1	2:1	3:1	4:1
Category II	3:1	3:1	4:1	6:1
Category I	6:1	6:1	8:1	Not allowed

\* Ratio is the replacement area: impact area.

C. Compensation for wetland buffer impacts shall occur at a minimum one-to-one ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

D. Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.

E. Buffers. Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based on the category in Section [21.64.130](#); provided, that the director shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

F. Adjustment of Ratios. The director shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a one-to-one ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement at a two-to-one ratio. For example, impacts to one acre of a Category II wetland requiring a three-to-one ratio for creation can be compensated by creating one acre and enhancing four acres (instead of the additional two acres of creation that would otherwise be required).

G. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration; provided, that mitigation within the watershed of a stream flowing into Oakland Bay or Hammersley Inlet and within WRIA 14 may be approved upon demonstration through a watershed- or landscape-based analysis that said mitigation site would have greater ecological benefit.

H. Protection. All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with Section [21.64.085](#).

I. Timing. Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.144 Wetland mitigation plan.**

In addition to meeting the requirements of Section [21.64.087](#), a compensatory mitigation plan for wetland and wetland buffer impacts shall meet the following requirements:

A. The plan shall be based on applicable portions of the Washington State Department of Ecology's Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 2004, or other appropriate guidance document that is consistent with best available science.

B. The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed.

Specific information to be provided in the plan shall include:

1. The rationale for site selection;
2. General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);
3. A description of the ecological functions and values that the proposed alteration will affect and the specific ecological functions and values the proposed mitigation area(s) shall provide, together with a description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
4. Overall goals of the plan, including wetland function, value, and acreage;
5. Description of baseline (existing) site conditions including topography, vegetation, soils, hydrology, habitat features (i.e., snags), surrounding land use, and other pertinent information;
6. Field data confirming the presence of adequate hydrology (surface and/or groundwater) to support existing and compensatory wetland area(s);
7. Nature of mitigation activities, including area of restored, created, enhanced and preserved wetland, by wetland type;
8. Detailed grading and planting plans showing proposed post-construction topography; general hydrologic patterns; spacing and distribution of plant species, size and type of proposed planting stock, watering or irrigation plans, and other pertinent information;

9. A description of site treatment measures including invasive species removal, use of mulch and fertilizer, placement of erosion and sediment control devices, and best management practices that will be used to protect existing wetlands and desirable vegetation;

10. A demonstration that the site will have adequate buffers sufficient to protect the wetland functions into perpetuity.

C. Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met and identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met. The performance standards shall be tied to and directly related to the mitigation goals and objectives.

D. Cost estimates for the installation of the mitigation program, monitoring, and potential corrective actions if project performance standards are not being met. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.145 Wetland mitigation monitoring.**

A. All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but generally not for a period less than five years. Reports shall be submitted annually for the first three years following construction and at the completion of years five, seven, and ten if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The director shall have the authority to modify or extend the monitoring period and require additional monitoring reports for up to ten years when any of the following conditions apply:

1. The project does not meet the performance standards identified in the mitigation plan.
2. The project does not provide adequate replacement for the functions and values of the impacted critical area.
3. The project involves establishment of forested plant communities, which require longer time for establishment.

B. Mitigation monitoring reports shall include information sufficient to document and assess the degree of mitigation success or failure as defined by the performance standards contained in the approved mitigation plan. Information to be provided in annual monitoring reports shall include the following:

1. Number and location of vegetation sample plots used to document compliance with performance standards;
2. Measurements of the percent survival of planted material, plant cover, stem density, presence of invasive species, or other attributes;
3. For sites that involve wetland creation, re-establishment or rehabilitation, hydrologic observations of soil saturation/inundation as needed to demonstrate that a site meets the wetland hydrology criterion;
4. Representative photographs of the site;
5. A written summary of overall site conditions and recommendations for maintenance actions if needed;
6. Other information that the director deems necessary to ensure the success of the site. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.147 Development standards—Wetlands.**

A. Development standards for adjacent development shall minimize adverse effects on the wetland, and shall include:

1. Subdivision of land shall assure that each lot has sufficient building area outside wetlands and buffers. Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least twenty feet between the buffer area and buildings.
2. Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into wetlands and buffer areas.
3. Activities that generate noise shall be located as far from the wetland and buffer as feasible. Roads, driveways, parking lots and loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the wetland, or separated by noise attenuating walls.
4. Light penetration into buffer areas and wetlands shall be limited by locating areas requiring exterior lighting away from the wetland boundary, or limiting light mounting heights to a maximum of four feet. Windows that will be lit at night should be minimized on the side of buildings facing wetlands and buffers, or screened as provided for in subsection C of this section.

B. Management of surface runoff from adjacent land shall minimize adverse effects on wetland ecological functions and shall include:

1. Control of surface water peak flow and duration of flow should be maintained at rates typical of native forest cover.
2. Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to wetlands and/or water bodies and to limit overland flow and erosion.
3. Surface or piped stormwater should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where stormwater is routed to wetlands, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible.
4. To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed fifteen percent, a ten-foot wide swale to intercept runoff or other effective interception facility approved by the director shall be provided at the edge of the buffer.
5. Adopt and implement an integrated pest management system including limiting use of fertilizers, herbicides and pesticides within twenty-five feet of the buffer.

C. In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas, to include:

1. Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a relative density of twenty, planting shall be required consisting of seedlings at a density of three hundred stems per acre or the equivalent;
2. Provide a dense screen of native evergreen trees at the perimeter of the buffer. If existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer. Planting shall be required equivalent to two rows of three-foot high stock of native evergreens at a triangular spacing of fifteen feet, or three rows of gallon containers at a triangular spacing of eight feet. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen;
3. Provide a plan for control of invasive weeds, and remove existing invasive species;
4. Provide for a monitoring and maintenance plan for a period of at least five years, except this provision may be waived for single-family residential lots. (Ord. 1689-1206 § 1 (part), 2007)

### **21.64.200 Geologically hazardous areas—Designation.**

The following areas are designated as “geologically hazardous areas”:

A. Landslide Hazard Areas. Landslide hazard areas include areas susceptible to landslides because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other physical factors. Landslide hazard areas shall include areas susceptible to landslides because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other physical factors. Potential landslide hazard areas exhibit one or more of the following characteristics:

1. Sensitive Sloped Areas. Slopes exceeding thirty-five percent with a vertical relief of ten or more feet except areas composed of competent rock and properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;
2. Areas designated as “U,” “UOS” and “URS” in the Coastal Zone Atlas;
3. Areas designated by the Soil Conservation Service as having “severe” limitation for building site development;
4. Areas that have shown evidence of historic failure or instability, including but not limited to back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; and areas that have toppling, leaning, or bowed trees caused by ground surface movement;
5. Slopes greater than fifteen percent that have a relatively permeable geologic unit overlying a relatively impermeable unit and having springs or groundwater seepage;
6. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action include slopes exceeding ten feet in height adjacent to streams, and lakes with more than a thirty percent gradient;
7. Areas located in a canyon or active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
8. Areas that are at risk of mass wasting due to seismic forces.

B. Erosion Hazard Areas. Erosion hazard areas are those areas of Shelton containing soils that may experience severe to very severe erosion hazard including those soils groups designated in the Soil Conservation Service Soil Survey of Mason County, Washington as “highly erodable land” and “potentially highly erodable land.”

C. Seismic Hazard Areas. Areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, soil liquefaction or surface faulting including:

1. Areas subject to surface faulting during a seismic event;
2. Areas with underlying deposits indicative of a risk of liquefaction during a seismic event;
3. Areas subject to slope failure during a seismic event;
4. Areas that are at risk of mass wasting due to seismic forces.

Seismic hazards shall be as identified in Washington State Department of Natural Resources seismic hazard maps for Western Washington and other geologic resources. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.210 Development standards for landslide hazard areas.**

Uses and activities in landslide hazard areas shall conform to the following standards:

A. Protection of Landslide Area and Buffer. The landslide hazard area and associated buffer shall be protected from disturbance, except in compliance with the standards of this section. Modification of topography and vegetation in landslide hazard areas shall be stringently limited to provide multiple benefits of long-term stability of sensitive slopes and related benefits including reduction of erosion potential, reduction of stormwater runoff, and preservation of related ecological values. Unless otherwise provided or as part of an approved alteration, removal of vegetation from a landslide hazard area or related buffer shall be prohibited. If the designated landslide hazard and buffer area lacks adequate woody vegetation to provide for stability, the director shall have the authority to require vegetation restoration or other measures to improve slope stability.

B. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to minimize or eliminate the risk of property damage, death, or injury and effects on other elements of the environment resulting from earth movement caused in whole or part by the development:

1. The buffer from the top of a slope shall be designed to protect persons and property from damage due to catastrophic slope failure and slope retreat over the lifetime of the use and provide an area of vegetation to promote shallow stability, control erosion and promote multiple benefits to wildlife and other resources. The minimum dimension of the buffer shall be equal to the greater of:
  - a. The distance from the top of slope equal to the vertical distance from the toe of slope to the top of slope;

b. The distance from the top of slope equal to the distance from the toe of slope upslope at a slope of two-to-one (horizontal to vertical) to a point that intersects with the site's ground elevation; or

c. Fifty feet from the top of the slope.

2. The minimum buffer from the bottom of a slope shall provide for safety of persons and property from the run-out resulting from slope failure and shall be the greater of:

a. The height of the slope; or

b. Fifty feet from the toe of the slope.

3. Buffer Reduction. The buffer may be reduced to a minimum of ten feet based on analysis of specific development plans provided by a qualified professional that demonstrates to the director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and other nearby critical areas.

4. Increased Buffer. The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

### C. Development Standards.

1. Division of land within or adjacent to landslide hazard areas and associated buffers shall be clustered to avoid landslide hazard areas and associated buffers. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the landslide area and buffer with provision for drainage, erosion control and related features that will not adversely affect the stability of the landslide area.

2. Alteration of a landslide hazard area and buffer in order to accommodate structures or land alteration may be authorized only in cases where the director finds that reasonable development cannot be accommodated on portions of the site not subject to landslide hazards and buffers, and if analysis by a qualified professional establishes compliance with the following standards, based on specific development plans:

a. The proposed development will not result in a risk of landslide that may affect development on the subject property or other properties in the vicinity, and will not result in a greater risk or a need for increased buffers on

neighboring properties. For unconsolidated deposits, development shall not decrease the factor of safety for landslide occurrences below the limits of one and one-half for static conditions and one and one-fifth for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.

- b. Measures to maintain slope stability, such as drainage systems, must be of a design that will assure operation without facilities requiring regular maintenance that would jeopardize stability if the facility fails.
- c. The development will not increase erosion or sedimentation risk on the site.
- d. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions.
- e. Such alterations will not adversely impact other critical areas.
- f. Structures shall be located on the least sensitive portion of the site and clustered where possible to reduce disturbance and removal of vegetation.
- g. Grading shall minimize alterations to the natural contour of the slope.
- h. Foundations should conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site.
- i. Retaining walls shall be preferred over cut and fill and shall be incorporated into structures wherever feasible.
- j. Landslide hazard areas on unconsolidated deposits with a gradient of forty percent where the toe of slope is within the buffer area of a wetland, stream, pond or lake are not eligible for alteration of landslide hazard areas or but may be subject to alteration of buffers, subject to compliance with the standards of this chapter.

3. Critical facilities, including, but not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials shall not be located in landslide hazard areas if there is a feasible alternative location outside the hazardous areas that would serve the intended service population. A facility may be allowed only subject to the standards in subsection (C)(2) of this section.

4. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

5. Point discharges from surface water facilities and roof drains onto or upgradient from an erosion or landslide hazard area shall be prohibited.

6. Roads, driveways and other vehicular access, trails and walkways may be permitted only if the applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW and subject to the standards in subsection (C)(2) of this section. If access through a hazard area is granted, exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified. Access roads and trails shall be engineered and built to standards that avoid the need for major repair or reconstruction beyond that which would be required in nonhazard areas and shall be:

- a. Located in the least sensitive area of the site.
- b. Designed to minimize topographic modification with low gradients and/or parallel to the natural contours of the site.
- c. Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.
- d. Clearing and grading shall minimize ground disturbance to the maximum extent feasible to accommodate allowed development and generally shall not extend more than ten feet beyond the approved development.

D. A qualified professional, licensed in the state of Washington, shall review projects in geologically hazardous areas to ensure that they are properly designed and constructed. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.220 Development standards for erosion hazard areas.**

A. Within erosion hazard areas disturbance of natural vegetation shall be limited. The following chart sets forth the maximum disturbance allowed on a site:

**Table 21.64.220**

## Amount of Slope Which Can Be Disturbed

Slope	Disturbance Allowed
0 to 15 percent	100 percent
15 to 25 percent	60 percent
25 to 40 percent	45 percent
Greater than 40 percent	0 percent

1. The overall disturbance allowed on development sites which have any combination of the above slope categories shall be determined by the following formula:

(square footage of the site having 0—15% slopes) x 1.00 + (square footage of site having 15—25% slopes) x 0.60 + (square footage of site having 25—40% slopes) x 0.45 = Total allowable site disturbance

2. Areas protected as critical areas by other provisions of this chapter shall be eliminated from the calculation of allowed site disturbance in subsection (A)(1) of this section.

3. The total allowable site disturbance limits shall be applied to the entire site and shall include all disturbance over the life of the project.

4. The disturbed area of the site shall be located within areas of the least sensitivity portions of the site.

5. Areas to be preserved as undisturbed shall be located on site plans and protected from disturbance during construction and use. Areas to be preserved in subdivisions shall be indicated on the face of the plat in accordance with Section [21.64.085](#), Notice on title. Disturbance limits shall be observed in subsequent development of lots.

6. Disturbance limits shall not be applied to existing single-family residential lots less than twenty thousand square feet in size that were created prior to the adoption of this chapter.

B. Structures shall be located on the least sensitive portion of the site and clustered where possible to reduce disturbance and removal of vegetation.

C. Grading shall minimize alterations to the natural contour of the slope. Building foundations shall conform to the natural contours of the slope and be stepped/tiered to conform to existing topography of the site.

D. Retaining walls shall be preferred over cut and fill for roads, parking lots and structures. Structures on slopes in excess of twenty-five percent shall incorporate earth retaining structures in buildings rather than employing freestanding earth retention structures.

E. Clearing and grading shall minimize ground disturbance to the maximum extent feasible and generally shall not extend more than ten feet beyond the approved development.

F. All structures or impervious surface improvements shall be required to have on-site drainage systems to meet the specifications of the public works department to control conveyance of stormwater to avoid erosion hazard areas. Point discharges or overland dispersion systems from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited from discharging onto slopes in excess of five percent. Conveyance should be provided to the foot of slopes.

G. Roads, driveways and other vehicular access, trails and walkways shall be:

1. Located in the least sensitive area of the site.
2. Designed to minimize topographic modification with low gradients and/or parallel to the natural contours of the site.
3. Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.

H. Logging activity allowed on slope exceeding twenty-five percent shall be partial cutting only and not clear cutting. "Partial cutting" is defined here as per WAC 222-16-010. In addition, subsequent harvest shall not create a condition inconsistent with that definition. Timber harvest in these areas shall be consistent with all applicable laws including but not limited to Chapter 222-30 WAC, Timber Harvesting, Chapter 222-34 WAC, Reforestation, and Chapter 222-38 WAC, Forest Chemicals. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.230 Seismic hazard areas standards.**

Development may be allowed in seismic hazard areas when all of the following apply:

A. If evaluation of site-specific subsurface conditions by a qualified professional demonstrates that the proposed development site is not subject to the conditions indicating seismic risk, the provisions of this subsection shall not apply.

B. If a site is subject to seismic risk, the applicant shall implement appropriate engineering design based on analysis by a qualified professional of the best available engineering and geological practices that either eliminates or minimizes the risk of structural damage or injury resulting from seismically induced settlement or soil liquefaction, including compliance with the following criteria:

1. Subdivision within a seismic hazard areas shall assure that each resulting lot has sufficient buildable area outside of the hazard area or that appropriate limitations on building and reference to appropriate standards are incorporated into subdivision approval and may be placed as restrictions on the face of the plat;
2. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the International Building Code;
3. Public roads, bridges, utilities and trails shall be allowed when there are no feasible alternative locations and geotechnical analysis and design are provided that ensure the roadway, bridge and utility structures and facilities will not be susceptible to damage from seismic induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

C. The director may waive or reduce engineering study and design requirements for alterations in seismic hazard areas for:

1. Mobile homes;
2. Additions or alterations to existing structures that do not increase occupancy or significantly affect the risk of structural damage or injury; and
3. Buildings that are not dwelling units or used as places of employment or public assembly. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.240 Geologically hazardous areas review and reporting requirements.**

A. When critical area maps or other sources of credible information indicate that a site proposed for development or alteration is or may be located within a geologically hazardous area, the director shall have the authority to require the submittal of a geological hazard assessment report.

B. A geological hazard assessment report is an investigation process to evaluate the geologic characteristics of the subject property and adjacent areas. The geological assessment shall include field investigation and may include the analysis of historical aerial photographs, review of public records and documentation, and interviews with adjacent property owners. The report shall include the following; provided, that the director may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

1. A description of which areas on the site, surrounding areas that influence or could be influenced by the site, or areas within three hundred feet of the site meet the criteria for geologically hazardous areas;

2. A scaled site plan showing:

a. The type and extent of geologic hazard areas, and any other critical areas, and buffers on, adjacent to or that are likely to impact or influence the proposal, including properties upslope of the subject site;

b. The location of existing and proposed structures, fill, access roads, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;

c. The existing site topography preferably accurate to within two-foot contours; and

d. Clearing limits;

3. A description of the site features, including surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;

4. A description of the processes affecting the property or affected by development of the property including soil erosion, deposition, or accretion;

5. A description of the vulnerability of the site to seismic and other geologic processes and a description of any potential hazards that could be created or exacerbated as a result of site development.

C. If development is proposed in an area subject to geologic hazards, the assessment shall include:

1. A description and analysis of the level of risk associated with development that complies with prohibitions and buffers associated with this code;

2. A description and analysis of the level of risk associated with alternative proposals for development within or with less setback from the area of geological hazard including risk to future occupants of the subject property, adjacent property, other critical areas and the general public safety;

3. A description and analysis of the level of risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas, including the risk of failure if structures, drainage systems or other facilities are not monitored, maintain, or cease to function as designed for any reasons;
4. A description and analysis of the level of risk associated with increased erosion or sedimentation risk on the site and potential effects on adjacent properties, water bodies and wetlands;
5. For projects in or affecting landslide hazard areas, the report shall also include:
  - a. Assessments and conclusions regarding slope stability for both the existing and developed conditions including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the International Building Code;
  - b. Description of the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down slope properties and critical areas;
  - c. For proposed development on unconsolidated deposits, analysis of whether the development results in a factor of safety for landslide occurrences below the limits of one and one-half for static conditions and one and one-fifth for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
6. For projects in seismic hazard areas, the report shall also include a detailed engineering evaluation of expected ground displacements or other liquefaction and/or dynamic settlement effects and proposed mitigation measures to ensure an acceptable level of risk for the proposed structure type or other development facilities such as access roads and utilities. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.300 Fish and wildlife habitat—Designation.**

A. Fish and wildlife habitat conservation areas are those areas identified as being of critical importance to the maintenance of certain fish, wildlife, and/or plant species. These areas are typically identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both. All areas within the city meeting these criteria are hereby designated critical areas and are subject to the provisions of this chapter.

B. For purposes of this chapter, fish and wildlife habitat conservation areas shall include all of the following:

1. The Washington State Department of Fish and Wildlife priority habitats and species recommendations for species and habitats, for:
  - a. Endangered species listed at WAC 232-12-014;
  - b. Threatened species listed at WAC 232-12-001;
  - c. Sensitive species listed at WAC 232-12-011;
2. Bald eagle habitat pursuant to WAC 232-12-292;
3. Endangered or threatened species listed in accordance with the federal Endangered Species Act together with the areas with which they have a primary association;
4. State natural area preserves and natural resource conservation areas including:
  - a. Department of Natural Resources (DNR) designated Natural Areas Preserves (NAP) and Natural Resource Conservation Areas (NECA);
  - b. Washington Department of Fish and Wildlife (WDFW) designated Wildlife Recreation Areas (WRA);
5. Waters of the state as defined in RCW 77.55.011 and 90.56.010 including shorelines of the state as defined in RCW 90.58.010;
6. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
8. Areas open to shellfish gathering under applicable health regulations and any "shellfish protection district" that may be established in accordance with Chapter 90.72 RCW.

C. In addition to the species and habitats identified in subsection B of this section, the city may designate additional species and/or habitats of local importance as follows:

1. In order to nominate an area or a species to the category of locally important, an individual or organization must:

- a. Demonstrate a need for special consideration based on:
  - i. Declining population;
  - ii. High sensitivity to habitat manipulation; or
  - iii. Demonstrated commercial, recreational, cultural, or other special value;
- b. Propose relevant management strategies considered effective and within the scope of this chapter; and
- c. Provide a map showing the species or habitat location(s).

2. Submitted proposals shall be reviewed by the city and may be forwarded to the state Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.

3. If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter, the city commission will hold a public hearing to solicit comment. Approved nominations will become designated locally important habitats or species and will be subject to the provisions of this chapter. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.310 Fish and wildlife habitat conservation areas—Water bodies.**

A. Streams shall be designated in accordance with the Washington State Department of Natural Resources (DNR) stream type as provided in WAC 222-16-030 with the following revisions:

1. Type S Water. All waters, as inventoried as “shorelines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands.
2. Type F-A Water. Segments of natural waters other than Type S waters, which are within defined channels greater than ten feet in width, as defined by the OHWM and periodically inundated areas of their associated wetlands or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat.
3. Type F-B Water. Segments of natural waters other than Type S waters, which are within defined channels less than ten feet in width, as defined by the OHWM, or within lakes, ponds, or impoundments having a surface area of less than one-half acre at seasonal low water and which in any case contain fish habitat.

4. Type Np Water. All segments of natural waters within defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.

5. Type Ns Water. All segments of natural waters within defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Type Ns waters must be physically connected by an above ground channel system to Type S, F, or Np waters.

B. Nonfish habitat streams are those streams that have no known or potential use by anadromous or resident fish based on the stream character, hydrology and gradient; provided, that human-made barriers shall not be considered a limit on fish use except when the director makes the following findings:

1. The human-made barrier is located beneath public infrastructure that is unlikely to be replaced and it is not feasible to remove the barrier without removing the public infrastructure; provided, that the infrastructure is not identified for future modification in the capital facility or other plans of the public agency responsible for the infrastructure, and the facility will not exceed its design life within the foreseeable future;
2. The human-made barrier is located beneath one or more occupied structures and it is not feasible to remove the barrier without removing the structure, and the structure is of a size and condition that removal or substantial remodel is not likely;
3. The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.320 Fish and wildlife habitat conservation areas—Water bodies—Buffers.**

The director shall have the authority to require buffers from the edges of all streams in accordance with the following:

A. Buffers shall be established for activities adjacent to as necessary to protect the integrity, functions and values of the resource. Buffer widths shall reflect the sensitivity of the species or habitat and the type and intensity of the adjacent human use or activity. Two systems of buffer dimensions are specified below, standard buffers and buffers based on specific water body reach characteristics and ecological functions.

B. Standard Buffers. The standard buffer widths required by this section are based on scientific studies of the conditions necessary to sustain ecological functions and values to support anadromous and resident fish and presume the existence of a dense native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. Buffers shall be measured as follows:

1. Type S Water. All waters, as inventoried as “shorelines of the state” under the jurisdiction of the Shoreline Management Act, except associated wetlands, which shall be regulated in accordance with Sections [21.64.100](#) through 21.64.147—One hundred fifty feet.
2. Type F-A Water. Segments of natural waters other than Type S waters, which are greater than ten feet in width—One hundred fifty feet.
3. Type F-B Water. Segments of natural waters other than Type S waters, which are less than ten feet in width—One hundred feet.
4. Type Np Water. Segments of natural waters that are perennial nonfish habitat streams—Seventy-five feet.
5. Type Ns Water. Segments of natural waters within defined channels that are seasonal, nonfish habitat streams—Fifty feet.
6. Nonfish-bearing streams in existing subdivisions:
  - a. Where streams have been placed in separate tracts, buffers will be provided by the tract, provided a minimum dimension of twenty-five feet from the edge of the stream is provided;
  - b. Where streams have not been placed in separate tracts, or if a minimum dimension of twenty-five feet from the edge of the stream is not provided, buffers will meet the dimensional requirements in subsection (B)(4) of this section, unless existing structures are located within the buffer. In that case, the following provisions shall apply:
    - i. An inner riparian buffer shall be provided with a dense community of native trees, shrubs, and groundcover. The dimension of this buffer shall be a minimum of fifteen feet, and may be expanded if sufficient clearance is available between the stream and existing primary structures;
    - ii. An outer riparian buffer may be provided to extend within ten feet of an existing primary structure. Within the outer buffer, a maximum of twenty-

five percent of the zone may be used as grass turf, with the balance a dense community of native trees, shrubs, and groundcover.

C. Stream-Reach-Based Buffer. The director shall have the authority to administer the stream buffers in the table below as an alternative to the standard buffers above, based on the specific ecological functions provided by the stream segments designated with the specific management measures specified. Boundaries of reaches shall be interpreted in accordance with the criteria in Section [20.06.020](#). Where alternative buffer dimensions are provided, the lesser dimension shall apply, unless otherwise specified.

**Table 21.64.320(C)—Stream-Reach-Based Regulations**

<b>Stream Name</b>	<b>Reach Number</b>	<b>Alternative Buffer Requirements and Management Measures</b>
Goldsborough Creek Mouth to First Ave. Bridge	1	Subject to restoration/management plan developed at the time of substantial site development, or when bank modification occurs. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide additional complexity in freshwater/saltwater gradients to enable juvenile anadromous fish to more effectively transition to saltwater.</li> <li>• Provide additional channel complexity and resting/refuge areas.</li> <li>• Provide riparian vegetation and shade for temperature modulation.</li> </ul>
Goldsborough Creek North Side First Ave. Bridge to 1229 W. Cota Street South Side First Ave. Bridge to Railroad Bridge	2N and 2S	Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and: <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands</li> </ul>

		<p>of evergreen and deciduous trees and understory.</p> <ul style="list-style-type: none"> <li>• Fence and sign buffer area.</li> </ul>
<p>Goldsborough Creek North Side 1229 W. Cota Street to 1515 W. Railroad Ave.</p>	3N	<p>Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
<p>Goldsborough Creek North Side 1515 W. Railroad Ave. to 2009 W. Railroad Ave.</p>	4N	<p>Minor and major alteration of existing development shall provide an inner buffer of fifty feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of one hundred feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
<p>Goldsborough Creek North Side 2009 W. Railroad</p>	5N	<p>Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and:</p>

Ave. to Shelton-Matlock Road Bridge		<ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Goldsborough Creek South Side Railroad Bridge to Mobile Home Park	3S	<p>Provide buffer of one hundred fifty feet or fifty feet beyond the top of thirty-five percent slope.</p> <p>Comply with all other standards.</p>
Goldsborough Creek South Side Mobile Home Park	4S	<p>Minor or major alteration of existing development provide an inner buffer of fifty feet, or seventy-five percent of the distance to existing mobile home building setback and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing mobile homes buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Buffer one hundred fifty feet, or fifty percent of lot depth.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Goldsborough Creek South Side Mobile Home Park to Shelton-Matlock Road Bridge	5S	<p>One hundred fifty feet or fifty feet beyond the top of thirty-five percent slope.</p> <p>Comply with all other standards.</p>

<p>Goldsborough Creek Both Sides Shelton-Matlock Road Bridge to SR 101</p>	<p>6</p>	<p>Minor alteration of existing development provide an inner buffer of fifty feet, or seventy-five percent of the distance to existing buildings and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of fifty feet, or seventy-five percent of the existing setback to the primary building.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>• Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
<p>Goldsborough Creek North Side SR 101 to UGA Boundary</p>	<p>7N</p>	<ul style="list-style-type: none"> <li>• Maintain buffer to existing railroad.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
<p>Goldsborough Creek South Side SR 101 to UGA Boundary</p>	<p>7S</p>	<p>Minor alteration of existing development provide an inner buffer of one hundred fifty feet or seventy-five percent of the existing building setback, whichever is less, and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than one hundred fifty feet.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the</p>

		<p>same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of one hundred fifty feet, or seventy-five percent of the existing setback to the primary building.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>• Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Coffee Creek Mouth to SR 101	1	<p>Minor alteration of existing development provide an inner buffer of fifty feet or seventy-five percent of the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than fifty feet.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of fifty feet, or seventy-five percent of the existing setback to the primary building, whichever is less.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>• Buffer one hundred feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Coffee Creek SR 101 to UGA Boundary	2	<p>Minor alteration of existing development provide an inner buffer of one hundred feet or seventy-five percent of the existing building setback, whichever is greater, and:</p>

		<ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than one hundred feet.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of one hundred feet, or seventy-five percent of the existing setback to the primary building, whichever is less.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>• Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Shelton Creek North Side Mouth to Front Street Bridge	1N	Maintain existing buffer and vegetation to railroad.
Shelton Creek South Side Mouth to Front Street Bridge	1S	<p>Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs.</p> <ul style="list-style-type: none"> <li>• Provide additional complexity in freshwater/saltwater gradients to enable juvenile anadromous fish to more effectively transition to saltwater.</li> <li>• Provide additional channel complexity and resting/refuge areas.</li> <li>• Provide riparian vegetation and shade for temperature modulation.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
Shelton Creek	2	Minor or major alteration or new development or

<p>Front Street Bridge to 7th Street Diversion</p>		<p>substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
<p>Shelton Creek 7th Street Diversion to North 13th Street</p>	<p>3</p>	<p>Minor or major alteration of existing development.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of one hundred feet or fifty feet beyond the top of the thirty-five percent slope, or fifty percent of distance between top-of-slope and the existing building setback.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>New development or substantial reconstruction. Substantial redevelopment.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of one hundred feet or fifty feet beyond the top of the thirty-five percent slope.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
<p>Shelton Creek North 13th Street to E. Island Lake Road</p>	<p>4</p>	<ul style="list-style-type: none"> <li>• Fifty-foot standard buffer.</li> <li>• Comply with all other standards.</li> </ul>
<p>Shelton Creek E. Island Lake Road to Island Lake</p>	<p>5</p>	<p>Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or</li> </ul>

		<p>deciduous trees, no understory requirement.</p> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or twenty-five percent of lot width as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Canyon Creek Shelton Creek to Headwaters	1	<p>Minor or major alteration or new development or substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
Canyon Creek Northcliff Road to Headwaters	2	<p>Minor or major alteration, where there is an existing open channel provide:</p> <ul style="list-style-type: none"> <li>• A buffer area of one hundred feet, or seventy-five percent of the distance to existing buildings.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>• A buffer area of one hundred feet, or fifty percent of the lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Shelton Creek West Tributary Shelton Creek to Northcliff Road	1	<p>Minor or major alteration or new development or substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>

		<p>Provide an outer buffer consisting of the remainder of setback to existing buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
Pioneer Way Creek Mouth to Olympic Highway South	1	<p>Minor or major alteration, open channel portions.</p> <ul style="list-style-type: none"> <li>• Maintain existing vegetated area, or fifty percent of building setback, whichever is greater.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Consider restoring an open channel on a case-by-case basis.</li> <li>• Where open channel exists, or is provided, provide buffer of fifty feet or minimum twenty-five feet beyond the top of thirty-five percent slope.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Pioneer Way Creek Olympic Highway South to Headwaters	2	<p>Minor or major alteration, open channel.</p> <ul style="list-style-type: none"> <li>• Maintain existing vegetated area, or fifty percent of existing building setback, whichever is greater.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>New development or substantial reconstruction.</p> <ul style="list-style-type: none"> <li>• Provide buffer of fifty feet or fifty feet beyond the top of thirty-five percent slope.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> <li>• Comply with all other standards.</li> </ul>
Kineo Avenue Creek South to Headwaters	1	<ul style="list-style-type: none"> <li>• Minor or major alteration, or new development or substantial reconstruction where an open channel is present:</li> <li>• Maintain existing vegetated area, or provide buffer of fifty feet or fifty feet beyond the top of thirty-five percent slope or fifty percent of existing building setback, whichever is greater.</li> </ul>

		<ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Johns Creek UGA Upstream to Oak Park Plat	1	<ul style="list-style-type: none"> <li>• Standard one-hundred-fifty-foot buffer or fifty feet beyond the top of thirty-five percent slope.</li> <li>• Nonconforming provisions apply to existing small lots.</li> <li>• Require low impact development standards for new development.</li> </ul>
Johns Creek Oak Park Plat	2	Maintain existing stream open space tract.
Johns Creek Oak Park Plat to UGA Boundary	3	<ul style="list-style-type: none"> <li>• Apply exceptional two-hundred-foot buffer or fifty feet beyond the top of thirty-five percent slope.</li> <li>• Wetland buffers will be wider in many cases.</li> <li>• Nonconforming provisions apply to existing small lots.</li> <li>• Require low impact development standards for new development.</li> </ul>
Mill Creek US 101 to SR 3	1	<ul style="list-style-type: none"> <li>• Apply standard one-hundred-fifty-foot buffer.</li> <li>• Require low impact development standards for new development.</li> </ul>
Mill Creek SR 3 to UGA Boundary	2	<ul style="list-style-type: none"> <li>• Apply standard one-hundred-fifty-foot buffer.</li> <li>• Require low impact development standards for new development.</li> <li>• Require development of portions of parcels south of the creek to gain access from the south rather than crossing the stream.</li> </ul>
Island Lake	1	<p>Minor or major alteration of existing development. Inner buffer of twenty-five feet, or seventy-five percent of existing building setback.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> <p>Outer buffer remainder of setback to buildings.</p> <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>New development or substantial reconstruction. Buffer of one hundred fifty feet, or in accordance with provisions for nonconforming lots.</p>
Goose Lake	1	No development until a MTCA plan is approved, at that time, or at the time of a specific development permit, the city will

		determine buffer and other management requirements.
Oakland Bay Shoreline Eagle Point UGA Limits to Manke Log Loading Facility	Marine 1	Preserve full one-hundred-fifty-foot buffer. Human uses at the water/upland interface are prohibited except water dependent utilities such as sewage and stormwater outfalls; provided, that all impacts are mitigated to result in no net loss of ecological productivity.
Oakland Bay Shoreline Manke Log Loading Facility to Simpson Timber Site Boundary	Marine 2	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• At the time of major redevelopment, the piped freshwater stream discharging at the head of the inlet shall be opened and reconfigured to provide saltwater marsh habitat, complexity in freshwater/saltwater gradients, channel complexity for anadromous fish resting/refuge areas and riparian vegetation and shade for temperature modulation. As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</li> </ul>
Oakland Bay Shoreline Simpson Timber Site Boundary to Goldsborough Creek	Marine 3	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural</li> </ul>

		<p>function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</p> <ul style="list-style-type: none"> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
<p>Oakland Bay Shoreline Simpson Timber Site Goldsborough Creek to Shelton Creek</p>	Marine 4	<p>Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface.</p> <p>Priorities for restoration include:</p> <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
<p>Oakland Bay Shoreline Shelton Creek Mouth to Simpson Log Loading Facility</p>	Marine 5	<p>On north side, maintain existing buffer and vegetation to railroad.</p> <p>Both sides, where fronted by existing development, subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface.</p> <p>Priorities for restoration include:</p> <ul style="list-style-type: none"> <li>• Provide additional complexity in freshwater/saltwater gradients.</li> </ul>

		<ul style="list-style-type: none"> <li>• Provide channel complexity and resting/refuge areas.</li> <li>• Provide riparian vegetation and shade for temperature modulation.</li> <li>• Provide for enhanced edge habitat through natural beach character at upland/marine water interface. Displacement of mudflats for functional features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge beaches must achieve more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
<p>Oakland Bay Shoreline Simpson Log Loading Facility to Pine Street Ramp</p>	<p>Marine 6</p>	<p>Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface.</p> <p>Priorities for restoration include:</p> <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
<p>Oakland Bay Shoreline Pine Street Ramp to UGA Boundary</p>	<p>Marine 7</p>	<p>Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface.</p>

	<p>Priorities for restoration include:</p> <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> <p>Dock and marina facilities subject to standard in Section <a href="#">21.64.330</a> and shoreline master program.</p> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Sections <a href="#">21.64.087</a> and <a href="#">21.64.370</a>, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>
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D. Buffer Measurement. The buffer shall be measured landward horizontally on both sides of the water body from the ordinary high water mark as identified in the field perpendicular to the alignment of the stream or lake/pond bank. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers, but shall not be extended across roads or other lawfully established structures or hardened surfaces that are functionally and effectively disconnected from the stream. Where lands adjacent to a stream display an average continuous slope of twenty percent to thirty-five percent and the required buffer is less than one hundred feet, the buffer shall extend to a thirty percent greater dimension. In all cases, where slopes within the required buffer exceed thirty-five percent, the buffer shall extend to a minimum dimension of twenty-five feet from the top of said slopes, or if a buffer associated with a geological hazard is present, to whichever extent is greater.

E. Buffers in conjunction with other critical areas. Where other critical areas defined in this chapter fall within the water body buffer, the buffer area shall be the most expansive of the buffers applicable to any applicable critical area. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.325 Fish and wildlife habitat conservation areas—Water bodies—Buffer averaging.**

The director shall have the authority to average standard stream buffer widths on a case-by-case basis when the applicant demonstrates to the satisfaction of the director that all the following criteria are met. Stream buffer averaging shall not be allowed if the performance-based stream buffers are implemented pursuant to Section [21.64.320\(C\)](#).

A. Averaging to improve wetland protection may be permitted when all of the following conditions are met as demonstrated by an assessment study pursuant to Sections [21.64.082](#) and [21.64.360](#):

1. The water body or buffer area has significant differences in characteristics that affect its habitat functions;
2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the water body and decreased adjacent to the lower-functioning or less sensitive portion;
3. The buffer averaging does not reduce the functions or values of the stream or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function;
4. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
5. The buffer at its narrowest point is never less than three-quarters of the required width;
6. The slopes adjacent to the stream within the buffer area are stable and the gradient does not exceed thirty percent.

B. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met as demonstrated by an assessment study pursuant to Sections [21.64.082](#) and [21.64.360](#):

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
2. The buffer averaging does not reduce the functions or values of the stream or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function;
3. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
4. The buffer at its narrowest point is never less than three-quarters of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed

development such as access that must be accommodated for reasonable use and requires a smaller buffer.

C. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of functions and values in conjunction with a critical area mitigation study. The specific measures that shall be implemented include but are not limited to those in Section [21.64.380](#). (Ord. 1689-1206 § 1 (part), 2007)

**21.64.326 Fish and wildlife habitat conservation areas—Water bodies—Buffer increase.**

The director shall have the authority to increase the width of a stream buffer on a case-by-case basis when such increase is necessary to achieve any of the following:

A. Protect fish and wildlife habitat, maintain water quality, ensure adequate flow conveyance; provide adequate recruitment for large woody debris, maintain adequate stream temperatures, or maintain in-stream conditions.

B. Compensate for degraded vegetation communities or steep slopes adjacent to the stream.

C. Maintain areas for channel migration.

D. Protect adjacent or downstream areas from erosion, landslides, or other hazards. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.330 Fish and wildlife habitat conservation areas—Water bodies—Allowed uses.**

The following activities or uses may be permitted in streams and/or their buffers when all reasonable measures have been taken to avoid adverse effects on species and habitats, the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose, and compensatory mitigation is provided for all adverse impacts that cannot be avoided.

A. Restoration of streams previously piped or channeled into a new or relocation streambed when part of a restoration plan that will result in equal or better habitat and water quality and quantity, and that will not diminish the flow capacity of the stream or other natural stream processes; provided, that the relocation has a state hydraulic project approval and all other applicable permits.

B. Road, trail, bridge, and right-of-way crossings, provided they meet the following criteria:

1. There is no other feasible alternative route with less impact on critical areas.

2. The crossing minimizes interruption of natural processes such as the downstream movement of wood and gravel and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream gradient and substrate, provide adequate horizontal clearance on each side of the ordinary high water mark and adequate vertical clearance above ordinary high water mark for animal passage. If a bridge crossing is not feasible, culverts shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, WDFW March 1999, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions), and in accordance with a state hydraulic project approval. The applicant or property owner shall maintain fish passage through bridge or culvert.

3. The city may require that existing culverts be removed, repaired, or modified as a condition of approval if the culvert is detrimental to fish habitat or water quality, and a feasible alternative exists.

4. Crossings shall be limited to the minimum width necessary. Common crossings are the preferred approach where multiple properties can be accessed by one crossing.

5. Access to private development sites may be permitted to cross streams, if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

C. Outdoor recreational or educational activities which do not significantly affect the function of the water body or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) and meet the following criteria:

1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalk.

2. The trail or facility shall be located in the outer fifty percent of the buffer area unless a location closer to the water body edge is required for interpretive purposes.

3. The trail or facility shall be constructed and maintained in manner that minimizes disturbance of the water body or buffer.

D. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and transformers or other facilities containing hazardous substances, may cross water bodies or be located in buffers, if the following criteria are met:

1. There is no reasonable location or route that does not cross the water body or outside the buffer based on analysis of system needs, available technology and alternative routes. Location within a buffer shall be preferred over a location within a water body. Crossings shall be contained within the footprint of an existing road or utility crossing where possible.
2. Impacts to fish and wildlife habitat shall be avoided to the maximum extent possible and mitigated when avoidance is not feasible.
3. Utilities that cross water bodies shall be as close to perpendicular to the channel as possible to minimize disturbance. Boring under the water body may be required.
4. If not a crossing, the utility line shall be located as far from the water body as possible.
5. The utility installation shall maintain the existing stream gradient and substrate.
6. Clearing, grading, and excavation activities shall be limited to the minimum necessary to install the utility line, and the area is restored following utility installation.

E. Stormwater conveyance or discharge facilities such as infiltration systems dispersion trenches, level spreaders, and outfalls may be permitted in a fish and wildlife habitat conservation area buffer on a case-by-case basis when all of the following are met:

1. Due to topographic or other physical constraints there are no feasible locations for these facilities outside the buffer.
2. The discharge is located as far from the ordinary high water mark as possible and in a manner that minimizes disturbance of soils and vegetation.
3. The discharge outlet is in an appropriate location and is designed to prevent erosion and promote infiltration.
4. The discharge meets stormwater flow and water quality standard as provided in the 2005 Ecology Stormwater Manual for Western Washington, or the equivalent.

F. Stream bank stabilization, shoreline protection, and public or private launching ramps may be permitted subject to all of the following standards:

1. Natural shoreline processes will be maintained to the maximum extent practicable. The activity will not result in increased erosion and will not alter the size or distribution of shoreline or stream substrate, or eliminate or reduce sediment supply from feeder bluffs;
2. Adverse impact to fish or wildlife habitat conservation areas, specifically juvenile and adult fish migration corridors, or associated wetlands will be mitigated;
3. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
4. Stabilization is achieved through bioengineering or soft armoring techniques in accordance with an applicable hydraulic project approval is issued by the Washington Department of Fish and Wildlife;
5. Hard bank armoring may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.

G. New public flood protection measures and expansion of existing measures may be permitted; provided, that bioengineering or soft armoring techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection, and shall be subject to requirement of the shoreline master program, where applicable, hydraulic project approval and other permits.

H. New docks shall be permitted only for public access, as an accessory to water-dependent uses or associated with a single-family residence; provided, that it is designed and used only as a facility for access to watercraft.

1. To limit the effects on ecological functions, the number of docks should be limited and new subdivisions should employ shared moorage whenever feasible. Docks on shorelines of the state must comply with policies and regulations of the city of Shelton shoreline master program.
2. Docks shall be located and designed to minimize adverse effects on ecological processes through location where they will interfere with fluvial and limnal processes including gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.

3. Docks shall minimize reduction in ambient light level by limiting width to the minimum necessary and shall not exceed four feet in width, except where specific information on use patterns justifies a greater width. Materials that will allow light to pass through the deck may be required including grating on walkways or gangplanks in nearshore areas.

4. Approaches shall utilize piers or other structures to span the entire upper foreshore to the point of intersection with stable upland soils and shall be designed to avoid interfering with stream processes.

5. Pile spacing shall be the maximum feasible to minimize shading and avoid a wall effect that would block or baffle currents, sediment movement or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

6. Docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

I. Launch ramps may be permitted for access to the water for the public or for residents of a development or for water dependent use subject to the following criteria:

1. Launch ramps shall be located and designed to minimize adverse effects on fluvial and limnal processes including stream gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.

2. Ramps shall be placed and maintained near flush with the bank slope. Preferred ramp designs, in order of priority, are:

a. Open grid designs with minimum coverage of beach substrate;

b. Seasonal ramps that can be removed and stored upland;

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

J. In-stream structures, such as, but not limited to, high flow bypasses, dams, and weirs, other than those regulated exclusively by the Federal Energy Regulatory Commission (FERC) shall be permitted only when the multiple public benefits are provided and ecological impacts are fully mitigated. Dams on shorelines of the state shall be regulated in accordance with the shoreline master program. Dams on other streams shall require a special use permit as provided by Chapter 20.46.

1. In-stream facilities locations shall avoid areas of high habitat value for aquatic organisms, specifically anadromous fish.

2. In-stream facilities shall be designed to produce the least feasible effect on fluvial processes and shall minimize change in gradient.

3 In-stream facilities shall provide mitigation of all impacts on aquatic species and habitat.

4. In-stream facilities shall provide fish passage, in accordance with Chapter 77.57 RCW.

5. A construction bond for one hundred fifty percent of the cost of the structure and all mitigation measures shall be filed prior to construction and a maintenance agreement shall specify responsibility for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the state of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

K. Facilities permitted as shoreline dependent or shoreline oriented uses in accordance with the city shoreline master program may be located in water bodies and buffers; provided, that only those facilities that are water dependent or water oriented and facilities for necessary access may be located in water bodies and buffers; and provided, that the facility is located, designed, constructed and operated to minimize and, where possible, avoid critical area disturbance to the maximum extent feasible.

L. Clearing and grading, when allowed as part of an authorized use or activity or as otherwise allowed in these standards, may be permitted; provided, that the following shall apply:

1. Grading is allowed only during the designated dry season, which is typically regarded as May 1st to October 1st of each year; provided, that the city may extend or shorten the designated dry season on a case-by-case basis, based on actual weather conditions.

2. Appropriate erosion and sediment control measures shall be used at all times. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, disturbed topsoil shall be redistributed to other areas of the site.

3. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.340 Other fish and wildlife habitat conservation areas.**

A. Definition and Buffers. Protection standards for fish and wildlife habitat conservation areas other than streams and lakes are as provided in the table below:

<b>Fish and Wildlife Habitat Conservation Area</b>	<b>Buffer Requirement</b>
<p>Areas with which federally listed threatened or endangered species have a primary association.            State priority habitats and areas with which priority species have a primary association.            A “primary association” means a critical component(s) of the habitats of a species, which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.</p>	<p>Buffers shall be based on recommendations provided by the Washington Department of Fish and Wildlife PHS Program; provided, that where no such recommendations are available, the buffer width shall be determined based on published literature concerning the species/habitat(s) in question and/or the opinions and recommendations of qualified professional with appropriate expertise.</p>
<p>Natural area preserves and natural resource conservation areas</p>	<p>Buffers shall be based on recommendations provided by site managers; provided, that the management strategies are considered effective and within the scope of this chapter.</p>
<p>Locally important habitat areas</p>	<p>The need for and dimensions of buffers for locally important species or habitats shall be determined on a case-by-case basis, according to the needs of specific species or habitat area of concern. The director shall coordinate with the Washington Department of Fish and Wildlife and other state, federal or tribal experts in these instances, and shall use WDFW PHS management recommendations when available.</p>

B. Alterations that occur within a locally important habitat area or that may affect a locally important species as defined herein shall be subject to review on a case-by-case basis. The director shall have the authority to require an assessment of the effects of the alteration on species or habitats and may require mitigation to ensure that adverse effects do not occur. This standard is intended to allow for flexibility and responsiveness with regard to locally important species and habitats. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.360 Fish and wildlife habitat conservation areas—Review and reporting requirements.**

A. When city critical area maps or Washington Department of Fish and Wildlife priority species and habitat information or other sources of credible information indicate that a site proposed for development or alteration is more likely than not to contain fish and wildlife

habitat conservation areas or be within the buffer of a fish and wildlife habitat conservation area, the director shall require a site evaluation (field investigation) by a qualified professional or other measures to determine whether or not the species or habitat is present and if so, its relative location in relation to the proposed project area or site. If no fish and wildlife habitat conservation areas are present, then review will be considered complete. If the site evaluation determines that the species or habitat is present, the director may require a critical areas assessment report.

B. The director may waive the report requirement for a single-family development that involves less than two thousand square feet of clearing and/or vegetation removal and will not directly disturb the designated stream or pond buffer area, designated species, or specific areas or habitat features that comprise the fish and wildlife habitat conservation area (nest trees, breeding sites, etc.) as indicated by a site plan or scaled drawing of the proposed development, except in the case of bald eagle habitat.

C. The critical areas report shall describe the characteristics of the subject property and adjacent areas. The assessment shall include the following:

1. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
2. Determination of the resource category and standard buffers;
3. Identification of critical areas and buffers within three hundred feet of the site and an estimate of the existing approximate acreage for each. The assessment of off-site resources shall be based on available information and shall not require accessing off-site properties if permission of the property owner cannot be obtained;
4. Proposed development activity;
5. A detailed description of the effects of the proposed development on ecological functions and buffer function and value, including the area of direct disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light or human intrusion;
6. Provisions to reduce or eliminate adverse impacts of the proposed development activities including, but not limited to:

- a. Clustering and buffering of development;
- b. Retention of native vegetation;
- c. Access limitations, including fencing;
- d. Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the salmonid recovery plan and/or other agency or tribe with expertise and jurisdiction over the subject species/habitat;
- e. Methods to reduce proximity impacts; and
- f. Other appropriate and proven low impact development techniques. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.370 Fish and wildlife habitat conservation areas—Mitigation standards.**

A. Activities that adversely affect fish and wildlife habitat conservation areas and/or their buffers should generally be avoided through site design, including clustering. Unavoidable impacts to designated species or habitats shall be compensated for through habitat creation, restoration and/or enhancement to achieve no net loss of habitat functions and values in accordance with the purpose and goals of this chapter.

B. When compensatory mitigation is required, the applicant shall submit a mitigation plan with sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include, but not be limited to:

1. General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);
2. A description of the functions and values that the proposed mitigation area(s) shall provide, together with a description of required and an assessment of factors that may affect the success of the mitigation program; and
3. A description of known management objectives for the species or habitat.

C. Required mitigation shall be completed as soon as possible following activities that will disturb fish and wildlife habitat conservation areas and during the appropriate season. Mitigation shall be completed prior to use or occupancy of the activity or development.

Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

D. The director shall have authority to require monitoring of mitigation activities and submittal of annual monitoring reports to ensure and document that the goals and objectives of the mitigation are met. The frequency and duration of the monitoring shall be based on the specific needs of the project as determined by the director. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.380 Fish and wildlife habitat conservation areas—Development standards for adjacent development.**

A. Development standards for adjacent development shall minimize adverse effects on the fish and wildlife habitat conservation areas, including water bodies, and shall include:

1. Subdivision of land shall assure that each lot has sufficient building area outside conservation areas and buffers. Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least twenty feet between the buffer area and buildings.
2. Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into conservation areas and buffer areas.
3. Activities that generate noise shall be located as far from the conservation areas and buffers as feasible. Roads, driveways, parking lots, loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the conservation areas, or separated by noise attenuating walls.
4. Light penetration into buffer areas and the water body shall be limited by locating areas requiring exterior lighting away from the conservation areas boundary, or limiting light mounting heights to a maximum of four feet. Windows that will be lit at night should be minimized on the side of buildings facing conservation areas and buffers, or screened as provided below in buffer management standards.

B. Management of surface runoff from adjacent land shall minimize adverse effects on fish and wildlife habitat conservation areas ecological functions and shall include:

1. Control of surface water peak flow and duration of flow should be maintained at rates typical of native forest cover.
2. Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to water bodies and to limit overland flow and erosion.

3. Surface or piped stormwater should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where stormwater is routed to water bodies, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible.

4. To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed fifteen percent, a ten-foot wide swale to intercept runoff or other effective interception facility approved by the director shall be provided at the edge of the buffer.

5. Adopt and apply integrated pest management system including limiting use of fertilizers, herbicides and pesticides within twenty-five feet of buffers to water bodies.

C. In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas established to include:

1. Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a relative density of twenty, planting shall be required consisting of seedlings at a density of three hundred stems per acre or the equivalent;

2. Provide a dense screen of native evergreen trees at the perimeter of the buffer. If existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer, planting shall be required equivalent to two rows of three-foot high stock of native evergreens at a triangular spacing of fifteen feet or three rows of gallon containers at a triangular spacing of eight feet. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen;

3. Provide a plan for control of invasive weeds, and remove existing invasive species;

4. Provide for a monitoring and maintenance plan for a period of at least five years, except this provision may be waived for single-family residential lots. (Ord. 1689-1206 § 1 (part), 2007)