

SECTION 5 – SHORELINE REGULATIONS

(Title 15 FWRC Shoreline Management)

Chapter 15.05 SHORELINE MANAGEMENT

Sections:

Article I. Generally

- 15.05.010 Purpose and authority.
- 15.05.020 Jurisdiction.
- 15.05.030 Additional definitions.

Article II. Shoreline Regulation

- 15.05.040 General development standards.
- 15.05.050 Shoreline modifications.
- 15.05.060 Environmental designations.
- 15.05.070 Summary of Uses, Approval Criteria, and Process.
- 15.05.080 Shoreline residential environment.
- 15.05.090 Urban conservancy environment.
- 15.05.100 Natural environment.

Article III. Administrative Procedures

- 15.05.110 Shoreline management permit and enforcement procedures, adoption by reference.
- 15.05.120 Permit processing and public notice.
- 15.05.130 Shoreline exemption.
- 15.05.140 Application requirements.
- 15.05.150 Shoreline substantial development permit.
- 15.05.160 Shoreline variance.
- 15.05.170 Conditional uses.
- 15.05.180 Final approval of shoreline permits.
- 15.05.190 Combined hearing authority.
- 15.05.200 Appeals.
- 15.05.210 Permit revisions.
- 15.05.220 Replacement, alteration, or reconstruction of nonconforming use or development.
- 15.05.230 Shoreline environment redesignation.
- 15.05.240 Amendments to this chapter.

Chapter 15.10 CRITICAL AREAS

Sections:

Article I. Generally

- 15.10.010 Purpose.
- 15.10.020 Applicable provisions.
- 15.10.030 Jurisdiction.
- 15.10.040 Other authority and jurisdiction.
- 15.10.050 Liability.

Article II. Administration

- 15.10.060 Administration.
- 15.10.070 Maps adopted.
- 15.10.080 Basis for determination.
- 15.10.090 Bonds.
- 15.10.100 Dedication.
- 15.10.110 Certain activities not subject to critical area standards.

Article III. General Site Design Requirements

- 15.10.120 Responsibility of applicant.
- 15.10.130 Vehicle circulation areas.
- 15.10.140 Time limitation.
- 15.10.150 Other requirements.

Article IV. Geologically Hazardous Areas Development

- 15.10.160 Limitations.

Article V. Streams

- 15.10.170 Stream setbacks.
- 15.10.180 Relocation.
- 15.10.190 Culverts.
- 15.10.200 Removal of streams from culverts.
- 15.10.210 Rehabilitation.
- 15.10.220 Intrusion into stream setbacks.
- 15.10.230 Additional requirements for clearing and grading.

Article VI. Regulated Wetlands

- 15.10.240 Determination of wetland and regulated wetland.
- 15.10.250 Wetland categories and standard buffers.

- 15.10.260 Structures, improvements, and clearing and grading within regulated wetlands.
- 15.10.270 Structures, improvements, and clearing and grading within regulated wetland buffers.

Article VII. Critical Aquifer Recharge Areas and Wellhead Protection Areas

- 15.10.280 Limitations.
- 15.10.290 Classification of wellhead capture zones.
- 15.10.300 General requirements.
- 15.10.310 Prohibited activities in Wellhead Capture Zone 1.
- 15.10.320 Regulation of facilities handling and storing hazardous materials.
- 15.10.330 Performance standards.
- 15.10.340 Use of pesticides, herbicides, and fertilizers in critical aquifer recharge areas and wellhead protection areas.

Chapter 15.15 FLOOD DAMAGE PREVENTION

Sections:

Article I. Generally

- 15.15.010 Purpose.
- 15.15.020 Adoption of state and federal statutes and regulations.
- 15.15.030 Methods of reducing flood losses.
- 15.15.040 Definitions.

Article II. Provisions

- 15.15.050 General provisions.
- 15.15.060 Permits.
- 15.15.070 Use of other base flood data (in A and V zones).
- 15.15.080 Information to be obtained and maintained.
- 15.15.090 Alteration of watercourses.
- 15.15.100 Conditions for flood variances.
- 15.15.110 Provisions for flood hazard reduction.
- 15.15.120 Subdivision proposals.
- 15.15.130 Review of building permits.
- 15.15.140 Specific standards.
- 15.15.150 AE and A1-30 zones with base flood elevations but no floodways.
- 15.15.160 Floodways.
- 15.15.170 Critical facility.

Chapter 15.05 SHORELINE MANAGEMENT

Article I. Generally

15.05.010 Purpose and authority.

The city adopts these regulations under the authority of the Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended, and the Shoreline Management Guidelines, Chapter 173-26 WAC. The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this title and has the authority to administer and enforce this title and any such rules and regulations. It is unlawful to violate or fail to comply with any provision of this title or any such rule or regulation.

(Ord. No. 09-597, § 50, 1-6-09; Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.10), 2-27-90. Code 2001 § 18-161.)

15.05.020 Jurisdiction.

(1) The provisions of this article shall apply to all development proposed within the areas defined as “shorelines” in RCW 90.58.030(2)(d), and “shorelines of state-wide significance” in RCW 90.58.030(2)(e), and “shorelands” in RCW 90.58.030(2)(f); see 15.05.030, Additional definitions. The approximate location of these shorelines shall be designated on maps maintained by the department of community development; however, the property owner or applicant shall be responsible for determining the specific location of the shoreline jurisdiction on the subject property when a permit is filed. The city shall be responsible for verifying shoreline jurisdiction. Washington Department of Ecology may be contacted to delineate the ordinary high water mark (OHWM) on a subject property as per its authority and responsibilities outlined in RCW 90.58.030(2)(f).

(2) No development shall be undertaken by any person on the shorelines of the state without obtaining a shoreline permit from the department of community development, or an authorized statement of exemption per WAC 173-27-040 and for developments exempted by RCW 90.58.140(9) and (10).

(3) All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and the City of Federal Way Shoreline Master Program whether or not a permit is required.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.30.10, 24.30.20), 2-27-90. code 2001 § 18-162.)

15.05.030 Additional definitions.

Unless otherwise defined in this chapter, the definitions contained in this section, FWRC Title 15, Chapter 90.58 RCW, Chapter 173-26 WAC and Chapters 173-27 WAC, Chapter 19.05 FWRC or FWRC 1.05.020 shall apply in that order.

“*Act*” means the Washington State Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

“*Amendment*” means a revision, update, addition, deletion, and/or reenactment to the Federal Way shoreline master program.

“*Aquaculture*” means the farming or culturing of food fish, shellfish or other aquatic plants and animals in streams, inlets, and other natural or artificial water bodies. 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, fish traps, or other similar apparatuses.

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

“Backshore” means a berm, together with associated marshes or meadows, on marine shores landward of the ordinary high water mark which is normally above high tide level and has been gradually built up by accretion.

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

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

“Berm” means a ledge or shoulder consisting of mounded earth or rock.

“Boating facility” means a facility or structure providing access in and out of the water for vessels, such as a launching ramp, rails, or lift station open to the public. For purposes of the Shoreline Master Program, boating facilities do not include docks, piers, moorage piles, mooring buoys, or floats associated with single-family residences or other joint-use structures not accessible to the public.

“Breakwater” means an off-shore structure, either floating or not, which may or may not be connected to the shore, such structure being designed to absorb and/or reflect back into the water body the energy of the waves.

“Bulkhead” means a wall, seawall, embankment, or other structure erected at or near the OHWM and roughly parallel to the shoreline that retains or prevents sliding or erosion of land or protects land and/or structures from wave or current action.

“Bluff” means a steep slope which abuts and rises from Puget Sound. Bluffs contain slopes predominantly in excess of 40 percent, although portions may be less than 40 percent. The toe of the bluff is the beach of Puget Sound. The top of a bluff is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the slope is either the line of vegetation separating the unvegetated slope from the vegetated uplands plateau or, when the bluff is vegetated, the point where the bluff slope diminishes to less than 15 percent.

“Commercial use” means the uses allowed in the commercial zones and the nonindustrial uses permitted in the commercial enterprise zone.

“Conditional use” means a use, development, or substantial development which is classified as a shoreline conditional use or is not classified within the shoreline master program.

“Critical salmonid habitats” mean habitats that are used by Pacific salmonid species that migrate between fresh water and salt water during their life cycle. These habitats include:

- (1) Gravel bottomed streams used for spawning;
- (2) Streams, lakes, and wetlands used for rearing, feeding, and cover and refuge from predators and high waters;
- (3) Streams and salt water bodies used as migration corridors;

(4) Shallow areas of salt water bodies used for rearing, feeding, as well as cover and refuge from predators and currents, including, but not limited to, forage fish habitats such as sandy beaches and eelgrass beds; and

(5) Pocket estuaries including stream mouths and deltas where fresh water mixes with salt water and provides rearing habitat for juvenile salmonids. All saltwater shorelines in Federal Way are critical salmonid habitats.

“Department” means the department of community development services, unless the context indicates otherwise.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act (RCW 90.58) at any state of water level.

“Dock” means all platform structures floating upon water bodies and connected to land to provide moorage or landing for waterborne pleasure craft.

“Dredging” means the removal of earth from the bottom of a stream, marine water body, lake or other water body for the purposes of deepening and/or maintaining a navigational channel.

“Drift cell” (also referred to as *“drift sector,”* or *“littoral cell”*) means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

“Ecological functions” means the work performed or role played by the physical, chemical, and biological processes in the shoreline that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

“Ecosystem-wide processes” means 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.

“Exemptions” means those development activities which are not required to obtain a Substantial Development Permit, but which must obtain an authorized statement of exemption and which must otherwise comply with applicable provisions of the Shoreline Management Act and the city’s local shoreline master program.

“Fair market value” means 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.

“Feasible” means that an action, such as a development project, mitigation, or preservation requirement, 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 determining an action's feasibility, the reviewing agency may weigh the action's relative public costs and public benefits considered in the short- and long-term time frames.

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

"Float" means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of Federal Way, and which is not connected to the shoreline.

"Floodplain" means one hundred-year flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

"Geologically hazardous areas" means areas which because of their susceptibility to erosion, land-sliding, seismic, or other geological events are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas include the following areas:

(1) Erosion hazard areas are those areas having a severe to very severe erosion hazard due to natural agents such as wind, rain, splash, frost action, or stream flow.

(2) Landslide hazard areas are those areas potentially subject to episodic downslope movement of a mass of soil or rock including, but not limited to, the following areas:

(a) Any area with a combination of:

(i) Slopes greater than 15 percent;

(ii) Permeable sediment, predominately sand and gravel, overlying relatively impermeable sediment or bedrock, typically silt and clay; and

(iii) Springs or groundwater seepage.

(b) Any area which has shown movement during the Holocene epoch, from 10,000 years ago to the present, or which is underlain by mass wastage debris of that epoch.

(c) Any area potentially unstable as a result of rapid stream incision, stream bank erosion, or undercutting by wave action.

(d) Any area located in a ravine or on an active alluvial fan, presently or potentially subject to inundation by debris flows or flooding.

(e) Those areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development.

(f) Those areas mapped as class U (unstable), UOS (unstable old slides), and URS (unstable recent slides) by the Department of Ecology.

(g) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking.

(3) Seismic hazard areas are those areas subject to severe risk of earthquake damage as a result of seismically induced ground shaking, slope failure, settlement or soil liquefaction, or surface faulting. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

(4) Steep slope hazard areas are those areas with a slope of 40 percent or greater and with a vertical relief of 10 or more feet, a vertical rise of 10 feet or more for every 25 feet of horizontal distance. A slope is delineated by establishing its toe and top, and measured by averaging the inclination over at least 10 feet of vertical relief.

“*Geotechnical report*” or “*geotechnical analysis*” means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology; the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes; conclusions and recommendations regarding the effect of the proposed development on geologic conditions; the adequacy of the site to be developed; the impacts of the proposed development; alternative approaches to the proposed development; and measures to mitigate potential site-specific and cumulative 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.

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

“*Groin*” means a barrier type structure extending from the backshore into the water across the beach. The purpose of a groin is to interrupt sediment movement along the shore.

“*Height*” means that distance measured from average grade level to the highest point of a structure: provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: provided further, that temporary construction equipment is excluded in this calculation.

“*Jetty*” means an artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment.

“*Landslide*” means an episodic downslope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, and earthflows.

“*Littoral drift*” means the natural movement of sediment along marine or lake shorelines by waveaction in response to prevailing winds.

“*Major stream*” means any stream, and the tributaries to any stream, which contains or supports, or under normal circumstances contains or supports, resident or migratory fish. If there exists a natural permanent blockage on the stream course which precludes the upstream movement of anadromous salmonid fish, then that portion of the stream which is downstream of the natural permanent blockage shall be regulated as a major stream.

“*Marine*” means pertaining to tidally influenced waters, including Puget Sound and the bays, estuaries, and inlets associated therewith.

“*Minor stream*” means any stream that does not meet the definition of major stream.

“*Mooring buoys*” means a floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

“*Native Shoreline Vegetation*” means trees, shrubs, and other plant species that are indigenous to a specific area or region. Plants native to western Washington are referenced in *Flora of the Pacific Northwest* (Hitchcock and Cronquist). Ornamental landscaping and invasive species shall not be considered native shoreline vegetation.

“*Natural*” or “*existing topography*” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavating or filling.

“Nearshore” means either nearshore environment or nearshore habitat and refer generally to an area along the Puget Sound shoreline that extends from the top of bluffs or upland area immediately adjacent to the beach to the point where sunlight penetrates marine waters to a depth where aquatic plant life is supported.

“Nonconforming use” or *“development”* means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or the applicable shoreline master program, or amendments thereto, but which does not conform to present regulations or standards of the shoreline master program.

“Non-water-oriented uses” means those uses that are not water-dependent, water-related, or water-enjoyment, and which have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores, and gas stations.

“Ordinary High Water Mark (OHWM)” means the mark on all lakes, streams, and tidal waters 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, as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high water mark adjoining freshwater shall be the line of mean high water.

“Permit” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58.RCW.

“Pier” means any fixed platform structure upon water bodies that is supported by piles and connected to land.

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

“Public access” means the general public's ability to view, reach, touch, and enjoy the water's edge and use the State's public waters, the water/land interface, and associated public shoreline area. Public access also includes actual, physical, unobstructed access from land to the ordinary high water mark or adjacent shorelands.

“Public utility” means the facilities of a private business organization such as a public service corporation, or a governmental agency performing some public service and subject to special governmental regulations, the services which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, electric power, telephone, cablevision, natural gas, and transportation for persons and freight. The term also includes broadcast towers, antennas, and related facilities operated on a commercial basis.

“Recreational development” means commercial and public facilities designed and used to provide recreational opportunities to the public.

“Replacement structure” means the construction of a new structure to perform the same function as an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing structures shall not be considered replacement structures.

“Residential development” means developments and occupancy in which persons sleep and prepare food, other than developments used for transient occupancy.

Residential development includes the creation of new residential lots through subdivision of land.

“Restoration” means in the context of “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.

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

“Shall” means a mandate; the action must be done.

“Shorelands” also referred to as *“shoreland areas”*, means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways, and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

“Shoreline administrator” means the director of the department of community development or his or her designee and is responsible for administering the Federal Way shoreline master program.

“Shoreline environment designation” means the categories of shorelines of the state established by the City of Federal Way shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

“Shoreline jurisdiction” means all *“shorelines of the state”* and *“shorelands”* as defined in the Federal Way shoreline master program and RCW 90.58.030.

“Shoreline Master Program (SMP)” means 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.

“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing and grading.

“Shoreline stabilization” means structural and nonstructural actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind, or wave action. Expansion or enlargement of existing stabilization measures is considered new stabilization.

“Shoreline variance” means to grant relief from the specific bulk, dimensional, or performance standards in the local shoreline master program, but not a means to vary a “use” of a shoreline.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shorelines of statewide significance” means those areas of Puget Sound in the city of Federal Way lying seaward from the line of extreme low tide.

“Shorelines of the state” means the total of all "shorelines" and "shorelines of statewide significance" within the city of Federal Way.

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

“SMA” means the Shoreline Management Act.

“SMP” means the Shoreline Master Program.

“Soft-shore bank stabilization” means the use of bioengineering or biotechnical bank stabilization measures where vegetation, logs, rock, and beach nourishment are used to address erosion control and slope stability.

“Stringline setback” means a straight line drawn between the points on the primary structures having the greatest projection water ward on the two adjacent properties. If one of the adjacent properties is unimproved, the line shall be drawn to the point of the standard shoreline setback at the side property line of the unimproved lot.

“Substantial accessory structure” means non primary structures equal to or larger than 400 square feet and in good repair.

“Vegetation conservation area” means an upland area adjacent to the ordinary high water mark or top of bluff where existing native vegetation and native trees shall be retained per the requirements of the Federal Way Shoreline Master Program. The width of the vegetation conservation area is consistent with setback requirements for specific uses and shoreline environment designations.

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

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

“Water-dependent use” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

“Water-enjoyment use” means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

“Water-oriented use” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

“*Water-related*” means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic vitality is dependent upon a waterfront location because:

- (1) Of 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 commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include professional services serving primarily water-dependent activities and storage of water-transported foods.

“*Wetland*” means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands. (Ord. No. 09-593, § 19, 1-6-09; Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98. Code 2001 § 18-163.)

Article II. Shoreline Regulation

15.05.040 General development standards.

The following general development standards apply to all uses and activities in all shoreline environments:

(1) *Impact mitigation.*

(a) To the extent Washington State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (FWRC 14.05.010 and WAC 197-11). Mitigation for adverse impacts to shoreline functions will be triggered during the SEPA review, shoreline land use permit process, or exemption approval process.

(b) Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.

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

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

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

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

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

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

(c) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(d) Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.

(e) Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policy of the Shoreline Management Act.

(f) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and are located in the immediate vicinity of the impact. However, alternative compensatory mitigation may be authorized if said mitigation occurs within the watershed and addresses limiting factors or identified critical needs for shoreline conservation based on watershed or comprehensive management plans. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

(2) *Vegetation conservation.* Existing shoreline vegetation shall be preserved per development standards established for each shoreline environment designation.

(3) *Water quality/stormwater.* All activities and development within the shoreline jurisdiction shall incorporate water pollution control measures and best management practices (BMPs) for stormwater management. Such measures shall address both temporary impacts to water quality from construction activities as well as the need for permanent stormwater management facilities in compliance with the requirements and restrictions of all applicable city and state regulations.

(4) *Critical areas.* Activities and development in critical areas found within shoreline jurisdiction are required to comply with the development standards outlined in Chapter 15.10 FWRC – Critical Areas and Chapter 15.15 FWRC – Flood Damage Reduction, for each area described below.

(a) Any conflict between the standards outlined in Chapter 15.10 FWRC or Chapter 15.15 FWRC and the SMP shall be resolved in favor of the standard that is most protective of the shoreline ecological functions. In addition to the development standards outlined in Chapter 15.10 FWRC and Chapter 15.15 FWRC, the following minimum requirements shall apply with regard to activities and development in critical areas found within shoreline jurisdiction:

(i) Minimum setbacks from the OHWM established by this chapter shall be maintained in all cases unless a shoreline variance is granted.

(ii) When 15.10.270 (*Structures, improvements and clearing and grading within regulated wetland buffers*), subsections (5) *Wetland Buffer Reduction* and (6) *Modification* are utilized for a project proposal, a shoreline variance permit is required if the overall proposed buffer width reduction exceeds 25 percent.

(b) *Geologically hazardous areas.* Regulated geologically hazardous areas located in the shoreline jurisdiction include seismic hazard areas, landslide hazard areas, steep slopes, and erosion hazard areas. If a geologically hazardous area is located within the shoreline jurisdiction, all activities on the site shall be in compliance

with the requirements and restrictions of Articles I, II, III, and IV of Chapter 15.10 FWRC. In addition to the development standards outlined in Chapter 15.10 FWRC, the following shall apply with regard to activities and development in geologically hazardous areas found within shoreline jurisdiction:

(i) Creation of new lots shall be prohibited where development and use on new lots would cause a foreseeable risk from geological conditions during the life of the development.

(ii) New development that causes risk from geological conditions should not be allowed.

(iii) New development on sites with steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical analysis.

(c) *Streams and wetlands.* If a stream or wetland is located within the shoreline jurisdiction, all activities within the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, II, III, V, and VI of Chapter 15.10 FWRC.

(d) *Flood damage reduction.* If an area of special flood hazard is located on or adjacent to a development site within shoreline jurisdiction, all activities on the site shall be in compliance with the requirements and restrictions of Chapter 15.15 FWRC. All activities allowed within the special flood hazard area by the requirements and restrictions of Chapter 15.15 FWRC shall not result in a net loss of ecological function.

(e) *Critical aquifer recharge areas and wellhead protection areas.* If a critical aquifer recharge area or wellhead protection area is located within the shoreline jurisdiction, all activities within the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, II, III, and VII of Chapter 15.10 FWRC.

(5) *Critical salmonid habitats.* All saltwater shorelines in Federal Way are critical salmonid habitats. Activities and development in critical salmonid habitats found within the shoreline jurisdiction are required to comply with the following development standards, in addition to those contained in other sections of this chapter:

(a) Structures which prevent the migration of salmon and steelhead are prohibited. Fish bypass facilities shall allow the upstream migration of adult fish. Fish bypass facilities shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(b) Shoreline modification structures may intrude into critical salmonid habitats only where the proponent demonstrates all of the following conditions are met:

(i) An alternative alignment or location is not feasible;

(ii) The project is designed to minimize its impacts on the environment;

(iii) If the project will create unavoidable adverse impacts, the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.

(iv) The project satisfies all provisions of FWRC 15.05.050 Shoreline modifications.

(c) Open pile bridges are the preferred water crossing structures over critical salmonid habitats. If a bridge is not feasible, one of the following water crossing structures may be approved if the impacts can be mitigated: temporary culverts, bottomless arch culverts, elliptical culverts, or other fish-passable round culverts. These structures are listed in priority order, with the first having the highest preference and the last the lowest preference. In order for a lower priority structure to be permitted, the

applicant must show the higher priority structures are not feasible. The project shall be designed to minimize its impacts on the environment.

(d) Bridges and in-water utility corridors may be located in critical salmonid habitats provided the proponent shows that all of the following conditions are met:

- (i) An alternative alignment is not feasible;
- (ii) The project is located and designed to minimize its impacts on the environment;
- (iii) Any alternative impacts are mitigated; and
- (iv) Any landfill is located landward of the ordinary high water mark.

Open piling and piers required to construct the bridge may be placed waterward of the ordinary high water mark, if no alternative method is feasible.

When installing in-water utilities, the installer may be required to place native material on the bed and banks of the water body or wetland to re-establish the preconstruction elevation and contour of the bed. The project shall be designed to avoid and minimize impacts on the environment.

(e) Dredging in critical salmonid habitats shall not be allowed unless the proponent demonstrates all of the following conditions are met:

- (i) The dredging is for a water-dependent or water-related use;
- (ii) An alternative alignment or location is not feasible;
- (iii) The project is designed to minimize its impacts on the environment;
- (iv) The project is in the public interest; and
- (v) If the project will create significant unavoidable adverse impacts, then the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.

(f) In-water dredge spoil disposal sites shall not be located in critical salmonid habitats.

(g) Filling, dumping, discharging (including discharging of stormwater), commercial or industrial waste water, dredging, channelization, draining, flooding, disturbing the water level, duration of inundation or water tables, and other activities which negatively impact habitat are prohibited in wetlands, ponds, and side channels which are associated with critical salmonid habitats.

(h) Within critical salmonid habitats, permanent channel changes and realignments are prohibited.

(i) The removal of aquatic and riparian vegetation within or adjacent to critical salmonid habitats shall be minimized. Trees which shade side channels, streams, estuaries, ponds, and wetlands associated with critical salmonid habitats shall be maintained consistent with the provisions of this chapter. Areas of disturbed earth shall be revegetated.

(j) Unless removal is needed to prevent hazards to life and property or to enhance critical salmonid habitats, large woody debris below the ordinary high water mark shall be left in the water to provide salmon and steelhead habitat.

(6) *Archaeological and historic resources.*

(a) If any archeological artifacts are uncovered during excavations in the shoreline, work must stop immediately and the City of Federal Way, the state Department of Archaeology and Historic Preservation, the Muckleshoot Indian Tribe, and the Puyallup Tribe of Indians must be notified.

(b) Proposals for ground disturbing activities in areas known to contain an historic, cultural, or archaeological resource(s) or highly suspected to contain

archaeological artifacts and data shall require a site inspection and evaluation by a professional archaeologist or historic preservation professional, as applicable, prior to issuance of a permit or initiation of disturbance. The evaluation shall include recommendations for monitoring of potentially disruptive activities, data recovery, and/or mitigation measures if warranted. Cost for inspection and evaluation of the site will be the responsibility of the applicant.

(7) Public access.

(a) In review of all shoreline permits or developments of more than four residential lots or dwelling units, or subdivision of land into more than four lots, or commercial development, or non-water dependent uses (including water-enjoyment and water-related uses) consideration of public access and joint use of community recreational facilities shall be required when:

(i) The development would generate demand for one or more forms of public shoreline access; and/or

(ii) The development would eliminate, restrict, or otherwise impair existing legal access opportunities or rights. In these instances, public access shall be provided by the development in a form, as detailed by FWRC 15.05.040(7)(d) of this section, consistent in character with the existing public access that was eliminated, restricted, or otherwise impaired.

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

(c) Public access requirements shall not be required when the applicant demonstrates that one or more of the following provisions apply:

(i) Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

(ii) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

(iii) The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total long term cost of the proposed development;

(iv) Significant environmental impacts would result from the public access that cannot be mitigated; and/or

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

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

(e) Public access locations shall be clearly marked with visible signage.

(f) Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).

(g) Shoreline development by any public entities, including the City of Federal Way, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment or other provisions in this section.

(8) Restoration Projects.

(a) Restoration projects within the shoreline environment consistent with WAC 173-27-080(2)(o) shall be allowed without a shoreline substantial development permit;

be reviewed through the shoreline exemption review process; and be designed consistent with the development standards outlined in Chapter 15.10 FWRC – Critical Areas and the provisions of this chapter.

(b) Approval of restoration projects shall be based on a review of a plan containing, at a minimum, 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.

(c) The shoreline administrator shall require an applicant to retain the services of a qualified professional in preparing the restoration plan. Intrusions into regulated steep slopes and associated setbacks will be allowed for purposes of approved restoration projects.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98, Code 2001 § 18-165)

15.05.050 Shoreline modifications

(1) *Shoreline stabilization.* Shoreline stabilization may be permitted in the shoreline residential environment. Hard armoring (e.g. bulkheads and riprap) is subject to a shoreline conditional use permit in the urban conservancy environment. Soft-shore stabilization may be permitted in the urban conservancy environment. Shoreline stabilization proposals shall address the following:

(a) Shoreline stabilization, including bulkheads, shall not be considered an outright permitted use on the city's shorelines. In order for shoreline stabilization to be permitted the city must find that:

(i) The applicant shall provide a geotechnical report, prepared by a qualified professional, that estimates the rate of erosion and evaluates alternative solutions; and the urgency associated with the specific situation; and

(ii) Soft-shore stabilization alternatives such as slope drainage systems, vegetative growth stabilization, gravel berms, and beach nourishment shall be prioritized over structural options such as bulkheads and riprap. The "softest" effective alternative shall be utilized; and

(iii) In the case of proposed hard armoring stabilization solutions (e.g. bulkheads and riprap), erosion from waves or currents presents a clear and imminent (damage within 3 years) threat to a legally established primary structure, one or more substantial accessory structures, water-dependent development, ecological restoration/toxic clean-up remediation projects, or public improvements; and

(iv) In the case of bulkheads and riprap, the proposed shoreline stabilization is located landward of the ordinary high water mark; and

(v) The proposed shoreline stabilization is the minimum size necessary to protect existing improvements; and

(vi) The applicant shall demonstrate that impacts to sediment transport are minimized to the greatest extent possible; and

(vii) Shoreline stabilization shall not have an adverse impact on the property of others and shall be designed so as not to create the need for shoreline stabilization elsewhere; and

(viii) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body and shall be constructed using an approved filter cloth or other suitable means to allow passage of surface and groundwater without internal erosion of fine material; and

(ix) Shoreline stabilization shall not be used to create new lands; and

(x) Use of chemically treated wood is prohibited for any shoreline stabilization proposal within freshwater lake shorelines; and

(xi) Use of creosote treated wood is prohibited within marine shorelines; and

(xii) Re-vegetation with native plants is required as part of the shoreline stabilization project; and

(xiii) Shoreline stabilization shall not otherwise result in a net loss of ecological functions.

(b) When a bulkhead or other structural alternative is permitted subject to subsection (a) above, the following standards shall apply:

(i) The maximum height of the proposed bulkhead or other stabilization structure is no more than one foot above the elevation of mean higher high water on tidal waters, or one foot in height above the elevation of ordinary high water mark on lakes, measured from grade on the waterward side of the bulkhead or structure; and

(ii) When a bulkhead or other stabilization structure has deteriorated such that the ordinary high water mark has been established by the presence and action of water landward of the existing bulkhead, then the replacement bulkhead or structure must be located at or landward of the ordinary high water mark.

(iii) Repair of an existing bulkhead or other stabilization structure is permitted provided that the repaired bulkhead or structure is not relocated further waterward or increased in height.

(iv) If an existing bulkhead or other stabilization structure is destroyed it may be replaced as it existed prior to destruction, provided application for required permits is made within one year of destruction. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

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

(vi) The project satisfies the provisions of FWRC 15.05.040(5)(b).

(c) Creation of new lots shall be prohibited where development and use on new lots would require structural shoreline stabilization over the life of the development. The following standards shall apply to new development.

(i) New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

(ii) New development, including newly created parcels, are required to be designed and located to prevent the need for future shoreline stabilization as documented by a geotechnical analysis.

(iii) New development on steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical analysis.

(2) *Piers, docks, floats, and mooring buoys.* Piers, docks, floats, and mooring buoys may be permitted in the shoreline residential and urban conservancy environments subject to the following conditions:

(a) Public piers and docks shall only be allowed for water-dependent uses and public access subject to a Shoreline Conditional Use Permit and the following criteria:

(i) Public's need for such a structure is clearly demonstrated;

(ii) The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;

(iii) The project is consistent with the state's interest in resource protection and species recovery; and

(iv) Moorage at public docks is limited to recreational purposes and shall not extend more than one 24-hour period. Public docks may not be used for commercial or residential moorage.

(b) Residential piers, docks, floats, or mooring buoys may be permitted accessory to a single-family residence, or as common use facilities associated with a subdivision, short subdivision, or multi-family development, in accordance with this chapter and the following limitations:

(i). Residential mooring buoys are preferred over docks and piers on the Puget Sound shoreline. Applicants for a residential dock or pier on the Puget Sound Shoreline must demonstrate why a mooring buoy will not provide adequate moorage for recreational watercraft.

(ii) No more than one pier, dock, float, or mooring buoy for each existing residential lot is permitted.

(iii) New residential developments of two or more units, subdivisions, or short subdivisions shall be limited to one shared dock or pier.

(A) The total number of moorage spaces shall be limited to one moorage space for every dwelling unit up to four. For each two dwelling units after four, one additional moorage space is permitted.

(c) All docks and piers shall be subject to the mitigation requirements per FWRC 15.05.040(1) and will result in no net loss of ecological functions associated with critical saltwater habitat. A preliminary eelgrass survey as specified under the Army Corps of Engineers, Regional General Permit, RGP 6 shall be required for new docks or piers on the Puget Sound shoreline.

(d) No dwelling unit may be constructed on a pier or dock.

(e) No covered pier, covered dock, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark.

(f) Piers, docks, mooring buoys, or floats shall meet the side and rear yard setbacks of the underlying zoning classification, except in the case of shared facilities, in which case no side yard setback is required.

(g) All piers, docks, mooring buoys, floats, or other such structures shall not, during the course of the normal fluctuations of the elevation of the water body, protrude more than five feet above the surface of the water.

(h) Floats cannot rest on the tidal substrate at any time. Stoppers on the piling anchoring the floats or stub piling must be installed such that the bottom of the floatation device is at least one foot above the level of the substrate.

(i) Any pier, dock, mooring buoy, or float must be constructed out of materials that will not adversely affect water quality. Use of chemically treated wood is prohibited in freshwater lake shorelines. Use of creosote treated wood is prohibited in marine shorelines.

(j) Any new pier or dock must be located generally perpendicular to the shoreline, and oriented to minimize shading impacts to the maximum degree feasible.

(k) Live-aboard vessels are prohibited. Moorage not associated with residential development may not extend greater than one 24-hour period without a lease from Washington Department of Natural Resources.

(l) *Pier and dock dimensions and grating, marine shorelines.*

(i) Where authorized by FWRC 15.05, piers and docks located on marine shorelines shall be the minimum size required to provide for moorage. Single-family piers or docks shall not exceed 75 feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 100 feet in length if demonstrated to be

necessary to provide adequate moorage. Docks that cannot meet this standard may request a review under the variance provisions of this Program.

(ii) The maximum width of each pier or dock shall be six feet.

(iii) The maximum width of walkway ramps shall be four feet and shall be fully grated.

(iv) The decking of all piers and docks shall be designed to allow a minimum of 45% light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(v). Pier skirting is not permitted.

(m). *Pier and dock dimensions and grating, lake shorelines.*

(i) The maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average length of the piers or docks on lots abutting the location of the new dock as measured perpendicularly from the ordinary high water mark unless an alternative dimension is required in order to prevent impacts to critical areas. In no circumstances shall the maximum waterward intrusion of any portion of any pier or dock extend more than 36 feet from the ordinary high water mark, or the point where the water depth is eight feet below the elevation of the ordinary high water mark, whichever is reached first.

(ii) The maximum width of each pier or dock shall be six feet, or up to eight feet wide on joint use docks where additional mitigation is provided.

(iii) The decking of all piers and docks shall be designed to allow a minimum of 45% light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(n) Floats are limited under the following conditions:

(i) One float per single-family residence and no more than one common use float for each new multi-family development, short subdivision, or subdivision is permitted.

(ii) No portion of a float shall be placed more than 45 feet waterward of the ordinary high water mark on lake shorelines.

(iii) Retrieval lines shall not float at or near the surface of the water.

(iv) No float shall have more than 100 square feet of surface area.

(v) Floats shall use grating on at least 30 percent of their surface to allow light penetration.

(3) Boating facilities – *launching ramps, rails, and lift stations.*

(a) Launching ramps, rails, and lift stations may be permitted in parks and public access areas in the shoreline residential and urban conservancy environments subject to a shoreline conditional use permit, where authorized by FWRC 15.05.070 through 15.05.090. The following conditions shall apply:

(i) No portion of a launching ramp, rail, or lift station shall be placed more than 60 feet waterward of the ordinary high water mark.

(ii) All portions of a launching ramp, rail, or lift station shall be placed at a depth not to exceed eight feet below the ordinary high water mark.

(iii) Launching rails or ramps shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps, which solidly cover the bottom or bed of a waterbody, are prohibited.

(iv) No more than one launching ramp, rail, or lift station per shoreline development shall be permitted.

(v) Launching ramps, rails, or lift stations shall not be permitted for shoreline developments that have an existing pier, dock, float, mooring buoy, or other functional

moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for shoreline developments that have existing launching ramps, rails, or lift stations.

(vi) Launching ramps, rails, and lift stations shall be sited and designed to ensure protection of navigation routes and access; shall be aesthetically compatible with or enhance existing shoreline features; and shall be clearly marked and separated from nearby swimming areas.

(vii) On-shore facilities associated with public boating facilities shall provide adequate off-street parking and loading area, and have adequate facilities for handling of sewage and litter.

(4) *Breakwaters, jetties and groins.*

(a) Floating breakwaters are permitted in the shoreline residential and urban conservancy environments, with a conditional use permit, when the following conditions apply:

(i) Floating breakwaters may be allowed if necessary to protect a public boat launch, when no other alternative with less impact to the environment is feasible.

(ii) When permitted, development of floating breakwaters shall include mitigation measures consistent with the chapter as to ensure no net loss of ecological function.

(iii) Non-floating breakwaters are prohibited.

(b) Jetties are prohibited within all shoreline environments in the city.

(c) Groins are prohibited in all shoreline environments in the city.

(5) *Dredging and filling.*

(a) *Dredging:*

(i) Dredging activities in shoreline residential or urban conservancy environments require a conditional use permit. Dredging is not permitted in the natural environment.

(ii) Dredging activities are allowed only where necessary to protect public safety or for shoreline restoration activities.

(iii) Dredging is allowed only where an alternative alignment that would not require dredging is not feasible.

(iv) Where allowed, dredging operations must be scheduled so as to not damage shoreline ecological functions or processes.

(v) Where allowed, dredging operations shall avoid and minimize significant ecological impacts to the greatest extent feasible, and shall be mitigated as required by this chapter.

(vi) Siting and design of new development shall avoid the need for new and maintenance dredging.

(vii) Dredging for fill materials shall be prohibited, except for projects associated with MTCA or CERCLA remediation actions, habitat restoration, or any other significant restoration effort approved by a shoreline conditional use permit. In such instances, placement of dredged fill material must be waterward of the OHWM.

(b) *Filling:*

(i) Fill activities waterward of the ordinary high water mark shall only be allowed with a shoreline conditional use permit in association with allowed (permitted) water dependent use developments; public access; cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with DNR Dredged Material Management Program; or expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible). Fill

waterward of the ordinary high water mark associated with non-water dependent uses shall be prohibited.

(ii) Fill waterward of ordinary high water mark needed to support the following water dependent uses may be allowed through a conditional use permit in the shoreline residential and urban conservancy environments:

- (A) Public access;
- (B) Expansion, alteration, or repair of transportation facilities currently located within the shoreline;
- (C) Mitigation actions;
- (D) Environmental, ecological, or watershed restoration projects;
- (E) Beach nourishment or enhancement projects; and
- (F) Soft shore bank stabilization projects.

(iii) Permitted fill activities must comply with the following standards:

- (A) Demonstration that alternatives to fill are not feasible;
- (B) Demonstration that fill shall be deposited so as to minimize disruption of normal surface and ground water passage;
- (C) Demonstration that fill materials shall be of such quality that it will not adversely affect water quality;
- (D) Demonstration that fill shall allow surface water penetration into the ground water supply, where such conditions existed prior to the fill; and
- (E) Demonstration that fill timing will minimize damage to water quality and aquatic life.

(iv) Fill, except for beach nourishment, shall be prohibited in areas of high shoreline erosion potential.

(v) Fill located waterward of the ordinary high water mark that results in a net loss of shoreline function is prohibited.

15.05.060 Environmental designations.

(1) *Purpose and establishment of designations.*

(a) The purpose of the designations is to differentiate between areas whose geographical, hydrological, topographical, or other features imply differing objectives regarding their use and future development.

Each environment designation represents a particular emphasis in the type of uses and the extent of development that should occur within it. The environmental designation system is designed to encourage uses in each environment that enhance or are compatible with the character of the environment, while at the same time requiring reasonable standards and restrictions on development so that the character of the environment is not adversely impacted.

(b) *Names of environment designations.* In order to accomplish the purpose of this title, environmental designations have been established as follows:

- (i) *Shoreline residential.*
- (ii) *Urban conservancy.*
- (iii) *Natural.*

(c) *Limits of environment designations.* Each environment designation shall consist of:

(i) The entire water body within city jurisdiction, including all water below the surface, the land below the water body, the space above the water body, and the shorelands associated with the water body. On the city's marine shoreline, environment

designations shall extend waterward from the ordinary high water mark to the line of extreme low tide.

(ii) The shoreline areas within 200 feet of the ordinary high water mark and additional upland areas where associated wetlands and floodplains extend beyond 200 feet from the ordinary high water mark.

(d) *Establishment of designations.*

(i) The written descriptions of the boundaries of the shoreline environment designations as adopted by ordinance shall constitute the official legal descriptions of the boundaries of those environment designations.

(ii) The official maps prepared by the city pursuant to Chapter 173-26 WAC shall constitute the official descriptions of the limits of all shorelands in the city of Federal Way as defined by RCW 90.58.030 and FWRC 15.05.030.

(iii) The department may, from time to time, as new or improved information becomes available, modify the official maps described in subsection (1)(d)(ii) of this section consistent with state guidelines to more accurately represent, clarify, or interpret the true limits of the shorelines defined herein.

(e) *Location of boundaries.*

(i) Boundaries indicated as following streets, highways, roads, and bridges shall be deemed to follow the centerline of such facilities unless otherwise specified.

(ii) Boundaries indicated as following railroad lines and transmission lines shall be deemed to follow the centerline of such rights-of-way or easements unless otherwise specified.

(iii) Where different environmental designations have been given to a tributary and the main stream at the point of confluence, the environmental designation given to the main stream shall extend for a distance of 200 feet up the tributary.

(iv) In case of uncertainty as to a wetland or environment boundary, the director of community development services shall determine its exact location pursuant to the criteria of WAC 173-22-040 and RCW 90.58.030, and the provisions of this title. (Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98. Code 2001 § 18-164.)

15.05.070 Summary of uses, approval criteria, and process

(1) Uses not addressed in the program shall be conditional uses.

(2) Specific regulations for each use/development are provided in subsequent sections for Shoreline Residential (FWRC 15.05.080), Urban Conservancy (FWRC 15.05.090), and Natural (FWRC 15.05.100) environments. All permitted and conditional uses may not appear in the permitted use table (FWRC 15.05.070(5)). In cases where uses are not listed, or conflicts exist with other section(s) of the Program, the text provisions shall control.

(3) *Prohibited uses.*

(a) The following uses are prohibited in all shoreline environments:

(i) Commercial agriculture.

(ii) Aquaculture.

(iii) Forest practices.

(iv) Industrial uses.

(v) Mining.

(b) Additional uses are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(4) *Prohibited shoreline modifications.*

(a) The following shoreline modifications are prohibited in all shoreline environments:

- (i) Jetties.
- (ii) Groins.

(b) Additional shoreline modifications are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(5) *Permitted use table:* The following table summarizes the permitted, conditional, and prohibited uses for each shoreline environment.

Shoreline Modification	Shoreline Environment		
	Shoreline Residential	Urban Conservancy	Natural
Shoreline Stabilization ¹	P	P/C ²	X
Piers, and Docks	P/C ³	P/C ³	X
Mooring Buoys and Floats	P	P	X
Boating Facilities	C	C ⁴	X
Floating Breakwaters ⁴	C	X	X
Dredging and Filling	P/C ⁵	P/C ⁵	X
Shoreline Use	Shoreline Residential	Urban Conservancy	Natural
Office and Commercial Development	X	C	X
Recreational Development	P	P	P/X ⁹
Residential Development	P	P	C ⁸
Accessory Structures	P	P	C
Utilities ⁶	P	P	C
Transportation / Parking Facilities ⁷	P	P	C

P = Allowed as exempt from permitting or permitted with substantial development permit

C = May be allowed with shoreline conditional use permit

X = Prohibited

1. Includes bulkheads, bio-engineered erosion control projects, and other shoreline stabilization activities.
2. Soft shore stabilization is permitted and hard armoring (e.g. bulkheads, rip rap) is subject to a shoreline conditional use permit.
3. Public piers and docks are allowed with a CUP.
4. Floating breakwaters are allowed with a shoreline conditional use permit, and only when used to protect a public boat launch. Non-floating breakwaters are prohibited.
5. Dredging and all fill waterward of the OHWM requires a conditional use permit.
6. Solid waste transfer stations and cellular towers are prohibited in all shoreline environments.
7. Parking as a primary use is prohibited in all shoreline environments, but allowed if serving an allowed shoreline use.
8. Multi-family residential development is prohibited within the Natural environment.
9. Non-water oriented recreational development is prohibited in the Natural environment.

(6) *Standards table:* The following table summarizes siting, design, and dimensional standards of this Program, as specified within FWRC 15.05.040,

15.05.050, 15.05.080, 15.05.090, 15.05.100 for general shoreline regulations, shoreline modifications, and shoreline uses.

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
General standards for all development and uses (further detailed by specific use regulations below)			
Height ¹	35 feet	35 feet	35 feet
Shoreline setbacks ²	50 feet from OHWM or as required for protection of critical areas, whichever is greater	50 feet from OHWM or as required for protection of critical areas, whichever is greater	100 feet from OHWM or as required for protection of critical areas, whichever is greater
Vegetation conservation area	Conserve 70% (minimum) of native vegetation and 70% (minimum) of native trees in setback	Conserve 85% (minimum) of native vegetation and 80% (minimum) of native trees in setback	Conserve 100% of native vegetation and 100% of native trees in setback
Office and commercial development			
Shoreline setbacks ²	N/A (Prohibited)	75 feet from OHWM or as required for protection of critical areas, whichever is greater ²	N/A (Prohibited)
Associated overwater structures		Prohibited, unless providing public access	
Residential development			
Shoreline setbacks ²	Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater ² Multi-family: 75 feet from OHWM or as required for protection of critical areas, whichever is greater ²	Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater ² (no multi-family zoning in this environment)	Single-family only, subject to CUP: 100 feet from OHWM or as required for protection of critical areas, whichever is greater
Density	Subject to underlying zoning (typically 7,000 to 10,000 sq ft minimum lot size; limited areas of multi-family residential zoning, 1,800 sq ft minimum lot size)	Subject to underlying zoning (7,000 to 10,000 sq ft minimum lot size)	Subject to underlying zoning (5-acre minimum lot size)
Residential accessory structures within the required shoreline setback			
Height	8 feet	8 feet	8 feet
Maximum footprint	150 sf per structure; 300 sf total per lot	150 sf per structure; 300 sf total per lot	150 sf per structure; 300 sf total per lot
Shoreline Modifications			
Shoreline stabilization ³ (FWRC 15.05.050(1))			
Design requirements	<ul style="list-style-type: none"> • Nonstructural alternatives prioritized • Creation of new land prohibited • Located at or landward of ordinary high water 		N/A (Prohibited)

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
	<ul style="list-style-type: none"> • Marine: creosote prohibited • Freshwater: chemically treated wood prohibited • Re-vegetation with native plants required • Maximum height is 1 foot above elevation of mean higher high water (tidal) / ordinary high water (lakes) 		
Piers, docks, mooring buoys, and floats (FWRC 15.05.050(2))			
Sideyard setbacks	Consistent w/ underlying zoning, except none when joint use		
Maximum height	Above water surface level: 5 feet		
Siting and design requirements	<ul style="list-style-type: none"> • Dwelling units prohibited on piers and docks • Covered overwater structures prohibited • Piers and docks oriented perpendicular to the shoreline • Piers and docks: must be constructed from materials that allow light penetration through the structure • Marine: creosote prohibited • Freshwater: chemically treated wood prohibited • Public dock moorage limited to recreational uses • 1 dock per existing residential lot • 1 shared dock per new multi-family development, subdivision, or short subdivision (additional limitations on number of moorage spaces) • 1 float per existing residence / 1 shared dock per new multi-family development / subdivision /short subdivision 		N/A (Prohibited)
Pier and dock dimensions, lake shorelines	<ul style="list-style-type: none"> • Residential piers and docks: maximum waterward intrusion: based on length of nearest existing docks on either side of the proposed dock; never to exceed 36 feet from OHWM or length at 8 feet of depth below OHWM, whichever is reached first • 6-foot maximum dock width (8-foot for joint use) 		
Pier and dock dimensions, marine shorelines	<ul style="list-style-type: none"> • Maximum waterward intrusion from OHWM 75-100 feet depending on use • 6-foot maximum dock width • Minimum 45% transparency of decking 		N/A (Prohibited)
Float dimensions and standards	<ul style="list-style-type: none"> • Maximum waterward intrusion: 45 feet from OHWM on lakes • Maximum surface area: 100 SF • Use of grating on at least 30% of surface area 		
Boating Facilities: Launching ramps, rails, and lift stations (FWRC 15.05.050(3))			
Dimensions and standards	<ul style="list-style-type: none"> • No more than 60 feet waterward from OHWM • No more than 8 feet below OHWM • No more than 1 ramp per shoreline development • Shall not be allowed for developments with existing pier, dock, float, or other functional moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for developments with existing launch facilities. 		N/A (Prohibited)

1. Maximum heights may be increased pursuant to the Shoreline Environment-specific regulations of this Program (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).
2. Please refer to the Shoreline Environment-specific regulations of this Program for additional detail related to residential setbacks, including exceptions or modifications to the standard minimum setback (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).
3. See additional review and approval criteria and design requirements in FWRC 15.05.050(1).

15.05.080 Shoreline residential environment.

(1) *Purpose.* The purpose of the “shoreline residential” environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) *Designation criteria.* Designation criteria for the shoreline residential environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less.

(i) This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the City to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention, erosion control, and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark, or other designated minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (e).

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 30 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 70 percent of existing native trees shall be retained. Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section.

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of 15.05.040(1).

(g) Collection facilities to control and separate contaminants shall be required where stormwater runoff from impervious surfaces would degrade or add to the pollution of recipient waters of adjacent properties.

(h) All development in the shoreline residential area must comply with applicable regulations identified within the general development standards, shoreline modifications, and all other applicable sections of this chapter.

(4) *Shoreline modifications.*

(a) Allowed modifications to the shoreline within shoreline residential designated areas include the following:

(i) *Shoreline stabilization.* Allowed within the shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

(ii) *Piers and docks.* Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iii) *Mooring buoys and floats.* Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iv) *Boating Facilities - launching ramps, rails, and lift stations.* Permitted with a conditional use permit in parks and public access areas within the residential environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

(v) *Breakwaters.* Floating breakwaters are allowed within the shoreline residential areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

(vi) *Dredging and filling.* Allowed within shoreline residential designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).

(b) Prohibited modifications to the shoreline within shoreline residential designated areas include the following:

(i) Jetties and groins.

(5) *Shoreline uses.*

(a) Allowed uses within shoreline residential designated areas include the following:

(i) *Residential development.* Single-family residential use shall be a priority use in the shoreline environment. Single-family and multiple-family residential development, accessory dwelling units, and home occupations may be permitted in the shoreline residential environment subject to the following:

(A) The proposed use is permitted in the underlying zone classification.

(B) Residential development is prohibited waterward of the ordinary high water mark.

(C) Setbacks.

(I) Single-family residential development on marine shorelines shall maintain a minimum shoreline setback of 50 feet from the ordinary high water mark. Single-family residential development on lake shorelines shall maintain a minimum setback behind the stringline setback or 50 feet from the ordinary high water mark, whichever is greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 50 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 50 foot minimum setback may be modified pursuant to the following exception:

(a) If single-family residential development is proposed on a lot where properties on at least one side of the lot are developed in single-family residences located less than 50 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residences (using the stringline setback method as

defined in FWRC 15.05.030), but shall in no case be closer than 30 feet from the ordinary high water mark.

(II) Multi-family residential development on marine shorelines shall maintain a minimum setback of 75 feet from the ordinary high water mark. Multi-family residential development on lake shorelines shall maintain a minimum setback behind the stringline setback or 75 feet from the ordinary high water mark, whichever is greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 75 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 75-foot minimum setback may be modified pursuant to the following exception:

(a) If multi-family residential development is proposed on a lot where properties on at least one side of the lot are developed in multi-family residential uses located less than 75 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residential uses (using the stringline setback method as defined in FWRC 15.05.030) but shall be no closer than 50 feet from the ordinary high water mark.

(D) *Public access.* In review of all shoreline permits or developments of more than four residential lots or dwelling units, or subdivision of land into more than four lots, consideration of public access shall be required consistent with FWRC 15.05.040(7).

(E) Where allowed consistent with underlying zoning, subdivision of land shall be configured through the orientation of lots to:

(I) Prevent the loss of ecological functions at full build-out by providing adequate developable space outside of setbacks; and

(II) Avoid the need for new shoreline stabilization and flood hazard reduction measures.

(ii) *Accessory structures.* Residential accessory structures may be placed within the required shoreline setback, provided:

(A) No accessory structure shall cover more than 150 square feet.

(B) No more than 300 square feet of accessory structures shall be allowed.

(C) No accessory structure shall exceed eight feet in height.

(D) Existing native shoreline vegetation within the shoreline setback is conserved as per general requirements (3)(d) and (e).

(iii) *Recreational development.* Recreational development may be permitted in the shoreline residential environment subject to the general requirements of this chapter, provided:

(A) The recreational development is permitted in the underlying zone.

(B) The facilities are located, designed, and operated in a manner consistent with the purpose of the residential environment.

(C) Recreational development that provides public access to and use of the water shall be given priority.

(D) Recreational development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of ecological functions.

(E) Swimming areas shall be separated from boat launch areas.

(F) Boat launching facilities may be developed, subject to a shoreline conditional use permit, provided:

(I) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed facility.

(II) The facility will not be located on a beach area or cause net loss in shoreline function.

(G) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(H) Public pedestrian and bicycle pathways shall be permitted adjacent to water bodies. Such trails and pathways must be made of pervious materials, if feasible.

(I) Public contact with unique and fragile areas shall be permitted where it is possible without destroying the natural character of the area.

(J) Water viewing, nature study, recording, and viewing shall be accommodated by space, platforms, benches, or shelter consistent with public safety and security.

(iv) *Utilities.* Utility facilities, with the exception of cellular towers, solid waste transfer stations, and production and processing facilities, may be permitted in the shoreline residential environment subject to the requirements of this chapter, provided:

(A) No other practicable alternative location outside of the shoreline jurisdiction with less impact to the environment is available for the facility.

(B) Utility and transmission facilities shall:

(I) Avoid disturbance of unique and fragile areas.

(II) Avoid disturbance of wildlife spawning, nesting, and rearing areas.

(III) Conserve native shoreline vegetation, particularly forested areas, to the maximum extent possible.

(IV) Overhead utility facilities shall not be permitted in public parks, monuments, scenic, recreation, or historic areas.

(V) Minimize visual impact.

(VI) Harmonize with or enhance the surroundings.

(VII) Not create a need for shoreline protection.

(VIII) Utilize to the greatest extent possible natural screening.

(IX) Mitigate for unavoidable impacts to achieve no net loss of shoreline ecological functions.

(X) Be located in existing utility and transportation rights-of-way whenever feasible.

(C) The construction and maintenance of utility facilities shall be done in such a way so as to:

(I) Maximize the preservation of natural beauty and the conservation of resources.

(II) Minimize scarring of the landscape.

(III) Minimize siltation and erosion.

(IV) Protect trees, shrubs, grasses, natural features, and topsoil.

(V) Avoid disruption of critical aquatic and wildlife stages.

(D) Rehabilitation of areas disturbed by the construction and/or maintenance of utility facilities shall:

(I) Be accomplished as rapidly as possible to minimize soil erosion and to maintain plant and wildlife habitats.

(II) Utilize native trees and shrubs.

(E) Solid waste transfer stations are prohibited within shoreline jurisdiction.

(F) Cellular or wireless towers are prohibited within shoreline jurisdiction.

(v) *Transportation and parking facilities.* Transportation and parking, except parking facilities associated with detached single-family development, shall conform to the following minimum requirements:

(A) Transportation corridors shall be developed consistent with the Transportation Element of the Federal Way Comprehensive Plan (FWCP) and designed to provide the best service with the least possible impact on shoreline ecological function. Impacts to functions shall be mitigated to achieve no net loss of ecological functions.

(B) New road construction shall be the minimum necessary to serve a permitted shoreline use.

(C) New public transportation facilities shall provide turnout areas for scenic stops where feasible.

(D) 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 adequately screened, or in cases when an alternate location would have less environmental impact on the shoreline.

(E) New surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction if possible, or set back from the ordinary high water mark far enough to make protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade unnecessary.

(F) Maintenance, repair, replacement, or other roadway improvements (including but not limited to widening to serve existing or projected volumes, installation of curb and gutter, sidewalks, illumination, signals) to existing surface transportation facilities shall be allowed within shoreline residential designated areas. Improvements that create a need for protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade shall not be permitted unless no alternative exists and impacts to shoreline ecological functions are mitigated.

(G) Any new development or expansion of existing development creating greater than six total parking stalls must meet the water quality standards required by the King County Surface Water Manual for “high use” sites and “resource stream protection.”

(H) Outdoor parking area perimeter, excluding entrances and exits, must be maintained as a planting area with a minimum width of five feet.

(I) One live tree with a minimum height of four feet shall be required for each 30 linear feet of planting area.

(II) One live shrub of one-gallon container size, or larger, for each 60 linear inches of planting area shall be required.

(III) Additional perimeter and interior landscaping of parking areas may be required, at the discretion of the director, when it is necessary to screen parking areas or when large parking areas are proposed.

(I) Parking as a primary use in shoreline jurisdiction shall be prohibited.

(J) Parking in the shoreline jurisdiction shall directly serve a permitted shoreline use and environmental and visual impacts shall be minimized.

(K) Transportation and parking facilities for subdivision, multi-family residential, and commercial uses shall incorporate low impact development (LID) designs to minimize stormwater runoff.

(L) Transportation facilities shall not adversely impact existing or planned water dependent uses.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3) of this chapter, the following uses are prohibited uses within shoreline residential designated areas:

(i) Office and commercial development.

15.05.090 Urban conservancy environment.

(1) *Purpose.* The purpose of the “urban conservancy” environment is to protect and restore ecological functions of open space, flood plain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. Priority should be given to water-oriented uses over non-water-oriented uses in the urban conservancy environment. Residential development and appurtenant structures should be accommodated in the urban conservancy environment when consistent with existing land use and zoning, and when consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) *Designation criteria.* Designation criteria for the urban conservancy environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the City to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark or other designated minimum setback necessary to protect designated critical areas per FWRC 15.04.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (e).

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 15 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 80 percent of existing native trees shall be retained. Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section.

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of 15.05.040(1).

(4) *Shoreline modifications.*

(a) Allowed modifications to the shoreline within urban conservancy designated areas include the following:

(i) *Shoreline Stabilization*. Allowed within urban conservancy designated areas and the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

(ii) *Piers and docks*. Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iii) *Mooring buoys and floats*. Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iv) *Boating facilities - launching ramps, rails, and lift stations*. Permitted with a shoreline conditional use permit in parks and public access areas within the urban conservancy environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

(v) *Breakwaters*. Floating breakwaters are allowed within the urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

(vi) *Dredging and filling*. Allowed within urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).

(b) Prohibited modifications to the shoreline within urban conservancy designated areas include the following:

(i) Jetties and groins.

(5) *Shoreline Uses*.

(a) Allowed uses within urban conservancy designated areas include the following:

(i) *Residential development*. Allowed within urban conservancy designated areas under the requirements imposed within FWRC 15.05.080(5)(a)(i), with the following additional restrictions:

(A) *Setbacks*. Residential development on marine shorelines shall maintain a minimum setback of 50 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Residential development on lake shorelines shall maintain a setback behind the stringline setback, or 50 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Exceptions to minimum setback requirements included in FWRC 15.05.080(5)(a)(i)(C), for both single-family and multi-family development, shall apply.

(B) *Accessory structures*. Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(ii).

(ii) *Recreational development*. Recreational development may be permitted in the urban conservancy environment subject to the general requirements of this chapter and under the requirements imposed by FWRC 15.05.080(5)(a)(iii).

(iii) *Utilities*. Allowed within urban conservancy designated areas under the requirements and restrictions imposed by FWRC 15.05.080(5)(a)(iv).

(iv) *Transportation and parking facilities*. Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(v).

(v) *Office and commercial development*. Office and commercial development may be allowed with conditional use approval in the urban conservancy environment subject to the requirements of this chapter, provided:

(A) The office or commercial use or activity is permitted in the underlying zoning classification.

(B) Public access is provided consistent with the requirements of FWRC 15.05.040(7).

(C) Non-water-oriented office and commercial uses are prohibited unless they meet one or more of the following criteria:

(I) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access and/or ecological restoration; or navigability is severely limited at the proposed site.

(II) In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right-of-way.

(III) Office and commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.

(D) Office and commercial development on marine shorelines shall maintain a setback of 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Office and commercial development on lake shorelines shall maintain a setback behind the stringline setback, or 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. The minimum setback may be reduced using the stringline method, when applicable, but in no case shall the minimum setback be less than 50 feet from the ordinary high water mark.

(E) Piers, docks, moorages, buoys, floats, and launching facilities will not be permitted in conjunction with office or commercial development; unless they are developed as part of on-site public access to the shoreline.

(F) Additional water quality standard must be met as per FWRC 15.05.040(3).

15.05.100 Natural environment.

(1) *Purpose.* The purpose of the “natural environment” is to protect those shoreline areas that are relatively free of human influence, or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, the city shall plan for restoration of degraded shorelines within this environment.

(2) *Designation criteria.* Designation criteria for the natural environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water dependent recreational uses and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the City to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 100 feet of property landward from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is the greater setback as a vegetation conservation area subject to provisions referenced in subsection (e).

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no native shoreline vegetation shall be cleared, and all existing native trees shall be retained. Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section.

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of 15.05.040(1).

(4) *Shoreline modifications.* The following shoreline modifications are prohibited within the natural designated shoreline areas:

- (a) Shoreline stabilization;
- (b) Piers, docks, moorages, buoys, and floats;
- (c) Boating facilities - launching ramp, rails, and lift stations;
- (d) Breakwaters, jetties, and groins; and
- (e) Dredging and filling.

(5) *Shoreline Uses.*

(a) Allowed uses within natural designated areas include:

(i) *Residential development.* Multi-family residential uses are prohibited in the natural environment. Single-family residential development and residential accessory structures may be permitted in the natural environment with a shoreline conditional use permit with the following additional restrictions:

(A) Allowed only where single-family residential development is permitted in the underlying zone classification.

(B) Single-family residential development is prohibited waterward of the ordinary high water mark.

(ii) *Recreational development.* Allowed within the natural designated areas subject to the limitations of FWRC 15.05.100(4) and provided:

(A) The recreational development is permitted in the underlying zone.

(B) Non-water-oriented recreational uses and development are prohibited within the natural designated areas.

(C) The recreational development is located, designed, and operated in a manner consistent with the purpose of the natural environment with a focus on passive recreation.

(D) Recreation development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of shoreline ecological functions.

(E) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed development.

(F) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(G) Public pedestrian and bicycle pathways shall be made of pervious materials.

(iii) *Utilities*. Allowed within the natural designated areas with a shoreline conditional use permit under the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(iv).

(iv) *Transportation and parking facilities*. Allowed in the natural environment only when necessary to serve an allowed use and subject to the approval of a conditional use permit. Approved facilities must, at a minimum, meet the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(v).

(v) *Low intensity public uses*. Low intensity public uses including scientific, historical, cultural, and educational research uses are allowed under the general requirements for the natural environment (FWRC 15.05.100(3)) and provided that ecological impacts are avoided.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3) of this chapter, the following uses are prohibited uses within natural designated areas:

- (i) Boating facilities;
- (ii) Multi-family residential development;
- (iii) Office and commercial development.

Article III. Administrative Procedures

15.05.110 Shoreline management permit and enforcement procedures, adoption by reference.

The city of Federal Way hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code (“WAC”) entitled Shoreline Management Permit and Enforcement Procedures.

WAC:

- (1) 173-27-020 Purpose
- (2) 173-27-040 Developments exempt from substantial development permit requirement
- (3) 173-27-130 Filing with department
- (4) 173-27-270 Order to cease and desist
- (5) 173-27-280 Civil penalty
- (6) 173-27-290 Appeal of civil penalty
- (7) 173-27-300 Criminal penalty

15.05.120 Permit processing and public notice.

An application for a shoreline development permit shall be made to the department of community development on forms prescribed by the department. Public notice shall be provided as follows:

(1) An application for a substantial development permit requires public notice as prescribed in Process III, Chapter 19.65 FWRC.

(2) An application for a shoreline conditional use permit or shoreline variance requires public notice as prescribed in Process IV, Chapter 19.70 FWRC.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 97-291, § 3, 4-1-97; Ord. No. 90-38, § 1(24.40), 2-27-90. Code 2001 § 18-169.)

15.05.130 Shoreline exemption.

(1) The purpose of a shoreline exemption is to provide an approval process for uses and activities which do not trigger the need for a substantial development permit, but require compliance with the shoreline guidelines and the goals, policies, and other provisions of the city's shoreline master program. A use or activity that qualifies for an exemption may require a Shoreline Variance (FWRC 15.05.160), or a Shoreline Conditional Use Permit (FWRC 15.05.170). An exemption from the substantial development permit process is not an exemption from compliance with any other applicable regulatory requirements.

(2) To qualify for an exemption, the proposed use, activity, or development must meet the requirements for an exemption as described in WAC 173-27-040.

(3) If the proposed development meets the requirements for an exemption, the applicant shall submit a request for an exemption to the director of community development services for review and approval. The request shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development. The city shall review the request and provide a summary of the analysis demonstrating consistency of the project with the Federal Way shoreline master program and the Shoreline Management Act. The city shall prepare a statement of exemption, provided the proposal meets exemption criteria. The burden of proof that a development or use is exempt from the permit process is on the applicant. If any part of the development is not eligible for exemption, then a substantial development permit is required for the entire proposed development.

(a) The director may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Shoreline Management Act and the Federal Way shoreline master program, per WAC 173-27-040(e). For example, in the case of development subject to a building permit, but exempt from the shoreline permit process, the building official or other permit authorizing official, through consultation with the director, may attach shoreline management terms and conditions to building permits and other permit approvals pursuant to RCW 90.58.140.

(b) Where shoreline development proposals are subject to review, approval, and permitting by a federal or state agency, the director shall prepare a statement of exemption, addressed to the applicant, the federal or state permitting agency, and ecology.

15.05.140 Application requirements.

Complete application. A complete application for a substantial development, shoreline conditional use, or shoreline variance permit shall contain, as a minimum, the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) A general indication of the character of vegetation found on the site.

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

(g) Where applicable, a landscaping plan for the project.

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

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

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

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

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

(m) 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.

(n) Summary of how the proposal meets relevant decisional criteria.

(o) Additional information as requested by the city.

(10) Where applicable, a shoreline assessment and mitigation report prepared by a qualified professional, which at a minimum, includes the following:

(a) Site plan and cross-sections of development and critical areas and critical salmonid habitat identified.

(b) A detailed description of proposed development.

(c) Identification of any species of local importance, priority species, or endangered, threatened, or sensitive species that have documented or observed habitat on or adjacent to the project area.

(d) An assessment of potential impacts the proposal may have on fish and wildlife species, critical areas, and critical salmonid habitats.

(e) A discussion of any federal, state, or local management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to project area.

(f) A discussion of mitigation measures that have been implemented to avoid and minimize adverse impacts to fish and wildlife species and habitats, critical areas, and critical salmonid habitat. The mitigation must also include a mitigation plan showing the area of mitigation and detailed mitigation measures, such as habitat features and planting of native vegetation.

(g) A discussion of monitoring, maintenance, and contingency measures to accompany the mitigation plan.

15.05.150 Shoreline substantial development permit.

(1) The purpose of a substantial development permit is to provide an approval process for any development with a total cost or fair market value exceeding \$5,718, 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 the preceding section, consistent with WAC 173-27-040. The substantial development dollar threshold on the adoption date of this Program is five-thousand seven-hundred and eighteen dollars (\$5,718). Under current law, the substantial development dollar threshold will be recalculated every five years by the Washington State Office of Financial Management (OFM). OFM posts updated dollar thresholds in the Washington State Register.

(2) When a substantial development permit is requested, the permit shall be reviewed under the provisions of Process III, Chapter 19.65 FWRC, and the director of community development shall be the final approval authority for the city of Federal Way.

(3) A substantial development permit shall be granted by the director only when the development proposed is consistent with the following:

- (a) Goals, objectives, policies, and use regulations of the Federal Way shoreline master program;
 - (b) Federal Way comprehensive plan and city code; and
 - (c) The policies, guidelines, and regulations of the shoreline management act (RCW 90.58, WAC 173-26, and WAC 173-27).
- (4) The director may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

15.05.160 Shoreline variance.

(1) The purpose of a shoreline variance is to grant relief to specific bulk, dimensional, or performance standards set forth in the shoreline master program, where there is an extraordinary or unique circumstance relating to the property such that the strict implementation of the shoreline master program would impose unnecessary hardship on the applicant or thwart the policies of the shoreline management act.

(2) When a variance is requested, the substantial development permit, if required, and the variance, shall be reviewed under the provisions of Process IV, Chapter 19.70 FWRC, and the hearing examiner shall be the final approval authority for the city of Federal Way. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

(3) A variance from the standards of the master program may be granted only when the applicant can demonstrate that all the following conditions will apply:

(a) That the strict requirements of the bulk, dimensional, or performance standards set forth in the master program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by the master program;

(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 restriction or the applicant's own actions;

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

(d) That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties, and will be the minimum necessary to afford relief;

(e) That the public interest will suffer no substantial detrimental effect;

(f) That the public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance when the proposal is for development located waterward of the ordinary high water mark, or within wetlands, estuaries, marshes, bogs, or swamps; and

(g) That consideration has been given to the cumulative effect of like actions in an area where similar circumstances exist, and whether this cumulative effect would be consistent with shoreline policies or would have substantial adverse effects on the shoreline.

(4) Shoreline variances may not be used to permit a use that is specifically prohibited in an environment, or to vary uses permitted within an environmental designation.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 97-291, § 3, 4-1-97; Ord. No. 90-38, § 1(24.60.10 – 24.60.40), 2-27-90. Code 2001 § 18-171.)

15.05.170 Conditional uses.

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

(2) When a conditional use is requested, the substantial development permit, if required, and the conditional use, shall be reviewed under the provisions of Process IV, Chapter 19.70 FWRC, and the hearing examiner shall be the final approval authority for the city of Federal Way. The Department of Ecology shall be the final approval authority under WAC 173-27-200.

(3) Conditional uses have unique and special characteristics which require a special degree of control to make the uses compatible with other existing or permitted uses in the same environment, and to assure that the use is in the public interest. In authorizing a conditional use permit, special conditions may be attached to the permit by the hearing examiner to prevent undesirable effects or mitigate environmental impacts of the proposed use.

(4) Conditional use permits shall be authorized only when they are consistent with the following criteria:

- (a) The proposed use is consistent with the policies of RCW 90.58.020 and the policies of the shoreline master program;
- (b) The use will not interfere with normal use of public shorelines;
- (c) The use will cause no unreasonable adverse effects on the shoreline or surrounding properties or uses, and is compatible with other permitted uses in the area;
- (d) The public interest will suffer no substantial detrimental effect;
- (e) Consideration has been given to cumulative impact of additional requests for like actions in the area.

(5) Other uses not set forth in the shoreline master program may be authorized through a conditional use permit if the applicant can demonstrate that other uses are consistent with the purpose of the shoreline environmental designation and compatible with existing shoreline improvements, or that extraordinary circumstances preclude reasonable use of the property; however, uses specifically prohibited by the master program may not be authorized.

(Ord. No. 00-375, § 2, 10-3-00; Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.70.10 – 24.70.50), 2-27-90. Code 2001 § 18.172.)

15.05.180 Final approval of shoreline permits.

(1) The director of community development shall notify the following agencies or persons within five days of the final approval of a shoreline permit and any shoreline variances or conditional uses granted:

- (a) The applicant;
- (b) The state Department of Ecology;
- (c) Any person who has submitted written comments on the application; and
- (d) Any person who has requested notification in writing prior to final approval of the permit.

(2) No work may commence on a site requiring a shoreline substantial development, shoreline variance, or shoreline conditional use permit until 21 days following the “date of filing” or until all review proceedings before the Shoreline Hearings Board have terminated.

(a) "Date of filing" for a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.

(b) "Date of filing" for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the City and the applicant/proponent.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.80.10, 24.80.20), 2-27-90. Code 2001 § 18.168.)

15.05.190 Combined hearing authority.

In those cases when development proposed in the shorelines may require a public hearing under the authority of other chapters of this Code, the hearings may be combined.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.90), 2-27-90. Code 2001 § 18-174.)

15.05.200 Appeals.

All appeals of any final permit decision are governed by the procedures established in RCW 90.58.180, RCW 90.58.140(6), and WAC 481-03, the rules and procedures of the Shoreline Hearings Board. All appeals of any final permit decision must be made to the Shoreline Hearings Board within 21 days of the date of filing of the city's final decision concerning the substantial development permit, or formal approval to revisions of the permit.

15.05.210 Permit revisions.

(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. When a revision of a shoreline permit is sought, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with the minimum standards pursuant to WAC 173-27-100.

(2) If the proposed changes are determined by the director to be within the scope and intent of the original permit, and are consistent with the Shoreline Management Act (RCW 90.58), the guidelines in WAC 173-26, and the Federal Way shoreline master program, the revision shall be approved.

(3) A new permit shall be required if the proposed revision would constitute development that is beyond the scope and intent of the original approval. "Within the scope and intent of the original approval" means all of the following:

(a) No additional over-water construction is involved except that a pier, dock, or floating structure may be increased by ten percent (10%) over that approved under the original approval; provided that the revision does not exceed the maximum size requirements of this chapter except as authorized under a variance granted for the original development;

(b) Ground area coverage and/or height may be increased a maximum of ten percent over that approved under the original approval; provided that, the revised approval does not authorize development to exceed the height, impervious surface, setback, or any other requirements of this chapter except as authorized under a variance granted for the original development;

(c) Additional or revised landscaping is consistent with any conditions attached to the original approval and with the Federal Way shoreline master program;

(d) The use authorized pursuant to the original approval is not changed; and

(e) The revision will not cause adverse environmental impacts beyond those originally authorized in the approval.

15.05.220 Replacement, alteration, or reconstruction of nonconforming use or development.

(1) Applications for substantial development or building permits to modify a nonconforming use or development, as defined in this chapter, may be approved only if:

- (a) The modifications will make the use or development less nonconforming; or
- (b) The modifications will not make the use or development more nonconforming;

and

(c) Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers, or yards; area; bulk; height, or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(2) An existing use or development, not conforming to existing regulations, which is destroyed, may be replaced (per “replacement structure” as defined in this chapter) as it existed prior to destruction, provided application for required permits is made within one year of destruction.

(3) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

(4) An undeveloped lot, tract, parcel, site, or division of land 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 or the Federal Way shoreline master program, but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the FWRC and so long as such development conforms to all other requirements of the Federal Way shoreline master program and the act.

(5) An existing mechanical improvement, not conforming to existing regulations, which breaks and cannot be repaired may be replaced, provided the replacement is no more nonconforming and application for required permits is made within one year of failure.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98; Ord. No. 90-38, § 1(24.100), 2-27-90. Code 2001 § 18-175.)

15.05.230 Shoreline environment redesignation.

Shoreline environments designated by the master program may be redesignated by the city council upon finding that such redesignation will be consistent with:

- (1) The policies of Section 2 of the Shoreline Management Act of 1971.
- (2) The goals, objectives, and policies of the shoreline master program.
- (3) The designation criteria of the shoreline environment designation requested.

(Ord. No. 99-355, § 3, 11-16-99; Ord. No. 98-323, § 3, 12-1-98. Code 2001 § 18-176.)

15.05.240 Amendments to this chapter.

Amendments to this chapter shall be pursuant to state review and approval as per WAC 176-26-110 and WAC 176-26-120.

Chapter 15.10 CRITICAL AREAS

Article I. Generally

15.10.010 Purpose.

The purpose of this chapter is to protect the environment, human life, and property from harm and degradation within the shoreline jurisdiction in the city of Federal Way. This is to be achieved by precluding or limiting development in areas where development poses serious or special hazards; by preserving and protecting the quality of surface water; and by preserving important ecological areas such as steep slopes, streams, and wetlands. The public purposes to be achieved by this chapter include protection of water quality, groundwater recharge, shoreline stabilization, stream flow maintenance, stability of slope areas, wildlife and fisheries habitat maintenance, protection of human life and property, and maintenance of natural stormwater storage systems.

15.10.020 Applicable provisions.

(1) The provisions of this chapter apply throughout designated shoreline areas under the Shoreline Master Plan and must be complied with regardless of any other conflicting provisions of Title 14 and 19, FWRC.

(2) Any conflict between the standards outlined in this chapter and Chapter 15.05 shall be resolved in favor of the standard that is most protective of the shoreline ecological functions. In addition to the development standards outlined in this chapter, the following minimum requirements shall apply with regard to activities and development in critical areas located within shoreline jurisdiction:

(a) Minimum setbacks from the top of marine bluffs specified in FWRC 15.05.040(4)(b)(iii) shall be maintained in all cases unless a shoreline variance is granted.

(b) Minimum setbacks from the OHWM established in FWRC 15.05.080, 15.05.090, and 15.05.100 shall be maintained in all cases unless a shoreline variance is granted.

15.10.030 Jurisdiction.

This chapter applies to the subject property if it:

- (1) Contains or is within 25 feet of a geologically hazardous area;
- (2) Contains or is within 100 feet of a wellhead;
- (3) Contains or is within 100 feet of the ordinary high water mark of a major stream;
- (4) Contains or is within 50 feet of the ordinary high water mark of a minor stream;
- (5) Contains or is within 200 feet of the edge of any regulated wetland, including regulated wetlands associated with any major stream, minor stream, or regulated lake; or
- (6) Is located within a critical recharge area or a wellhead protection area (one-, five-, or 10-year wellhead capture zone).

15.10.040 Other authority and jurisdiction.

Nothing in this chapter in any way limits, or may be construed to limit, the authority of the city under any other applicable law, nor in any way decreases the responsibility of

the applicant to comply with all other applicable local, state, and federal laws and regulations.

15.10.050 Liability.

(1) Prior to issuance of any building permit or other permit by the building official, the applicant may be required to enter into an agreement with the city, in a form acceptable to the city attorney, releasing and indemnifying the city from and for any damage or liability resulting from any development activity on the subject property which is related to the physical condition of the steep slope, stream, or regulated wetland. This agreement shall be recorded in the county, at the applicant's expense, and shall run with the property.

(2) The city may also require the applicant to obtain insurance coverage for damage to city or private property and/or city liability related to any such development activity.

Article II. Administration

15.10.060 Administration.

Except as otherwise established in this chapter, this chapter will be implemented and enforced as part of the city's review of any development activity on the subject property. If the development activity requires approval through Process I, II, III, or IV the provisions of this chapter will be implemented as part of these processes. If the development activity does not require approval through Process I, II, or III, the provisions of this chapter will be implemented through site plan review under Chapter 19.60 FWRC.

15.10.070 Maps adopted.

The city hereby adopts the June 19, 1999, city of Federal Way final wetland inventory report, to show the locations of certain regulated wetlands in the designated shoreline areas of the Shoreline Master Plan. The city hereby adopts the Lakehaven Utility District wellhead one-, five-, and 10-year capture zone maps, as now existing or amended.

15.10.080 Basis for determination.

The determinations regarding whether the subject property is regulated under this chapter, as well as the extent and nature of the regulations that will apply to the subject property, will be determined based on environmental information and mapping possessed by the city as well as other information and mapping provided by or through the applicant. The city may require the applicant, at the applicant's expense, to provide any information, mapping, studies, materials, inspections, or reviews that are reasonably necessary to implement this chapter and to require that such information, studies, mapping, materials, inspections, and reviews be provided or performed by a qualified professional acceptable to the city. Other provisions of this chapter detail other information and inspections that may be required in some instances.

15.10.090 Bonds.

The city may require a bond under Chapter 19.25 FWRC to ensure compliance with any aspect of this chapter.

15.10.100 Dedication.

The city may require the applicant to dedicate development rights or an open space easement to the city to ensure protection of steep slopes, wells, streams, and regulated wetlands and other areas within the jurisdiction of this chapter.

15.10.110 Certain activities not subject to critical area standards.

(1) The following activities are not subject to the provisions of this chapter:

(a) Emergencies that, in the opinion of the shoreline administrator, threaten the public health, safety, and welfare, where impacts to critical areas and their buffers are mitigated to the extent feasible following the emergency actions;

(b) Normal and routine maintenance and repair of the following facilities, for which a maintenance plan has been approved by the public works director, provided that impacts to critical areas and their buffers are mitigated to the extent feasible:

(i) Existing drainage ditches provided, however, that this exception shall not apply to any ditches used by salmonids other than to permit free migration of salmonids to their spawning grounds;

(ii) Surface water facilities, provided that such activities shall not involve conversion of any regulated wetland not currently being used for such activity;

(iii) Existing public facilities and utility structures or rights-of-way.

The maintenance plan may be designed to address individual facilities or facility components, area-wide facilities, or city-wide systems. The maintenance plan shall identify the nature of the potential maintenance or repair activities, specifications for work which may occur within potential sensitive areas, specifications for restoring and/or mitigating impacts, specifications for timing of maintenance or repair activities, and process for contacting or notifying the city of pending maintenance or repair activities to ensure compliance with the approved plan. The public works director may require that an appropriate bond or security be maintained with the city to ensure restoration of disturbed areas.

(2) Any activities not subject to the provisions of this chapter are still subject to the requirements of Chapter 15.05 FWRC.

Article III. General Site Design Requirements

15.10.120 Responsibility of applicant.

The applicant shall locate all improvements on subject property to minimize adverse impacts to geologically hazardous areas, wells, streams, regulated wetlands, and critical aquifer recharge and wellhead protection areas.

15.10.130 Vehicle circulation areas.

The applicant shall locate all parking and vehicle circulation areas as far as possible from any geologically hazardous area, wellhead, stream, and regulated wetland.

15.10.140 Time limitation.

The city may limit development activities which involve any clearing and grading activity to specific months of the year and to a maximum number of continuous days or hours in order to minimize adverse impacts.

15.10.150 Other requirements.

The city may require other construction techniques, conditions, and restrictions on development in order to minimize adverse impacts on geologically hazardous areas, wells, critical aquifer recharge areas and wellhead protection areas, streams, or regulated wetlands.

Article IV. Geologically Hazardous Areas Development

15.10.160 Limitations.

(1) This section regulates development activities and clearing and grading on or within 25 feet of a geologically hazardous area. Refer to FWRC 15.05.040(b)(iii) for additional requirements related to properties with steep slopes and bluffs.

(2) Development activities, clearing and grading, or the installation and maintenance of landscaping normally associated with residential, commercial, or park use may not occur on or within 25 feet of a geologically hazardous area unless no reasonable alternative exists and then only if the development activity or clearing and grading will not lead to or create any increased slide, seismic, or erosion hazard.

(3) Before approving any development activity or clearing and grading under this section, the city may require the applicant to submit the following information:

(a) A soils report prepared by a qualified professional engineer licensed in the state which describes how the proposed development will impact each of the following on the subject property and nearby properties:

- (i) Slope stability, landslide hazard, and sloughing.
- (ii) Seismic hazards.
- (iii) Groundwater.
- (iv) Seeps, springs, and other surface waters.
- (v) Existing vegetation.

(b) Recommended foundation design and optimal location for roadway improvements.

(c) Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.

(d) Any other information the city determines is reasonably necessary to evaluate the proposal.

(4) If the city approves any development activity or clearing and grading under this section, it may, among other appropriate conditions, impose the following conditions of approval:

(a) That the recommendations of the soils report be followed.

(b) That the applicant must pay for the services of a qualified professional engineer selected and retained by the city to review the soils report and other relevant information.

(c) That a qualified professional engineer be present on site during all clearing and grading activities.

(d) That trees, shrubs, and groundcover be retained except where necessary for approved development activities on the subject property.

(e) That additional vegetation be planted in disturbed areas.

Article V. Streams

15.10.170 Stream setbacks.

(1) No clearing and grading or improvements may take place or be located in a stream or within the following stream setback areas except as allowed within this chapter:

(a) The stream setback area for a major stream includes all areas within 100 feet outward from the ordinary high water mark of a major stream.

(b) The stream setback area for a minor stream includes all areas within 50 feet outward from the ordinary high water mark of a minor stream.

(2) The stream setback areas established by this section do not apply to any segment of a stream that is presently within a culvert, unless that stream will be taken out of the culvert as part of development of the subject property.

15.10.180 Relocation.

(1) Relocation of a stream on the subject property is permitted subject to all of the conditions and restrictions of this section.

(2) A proposal to relocate a stream will be reviewed and decided upon using process IV per Chapter 19.70 FWRC.

(3) As part of any request under this section, the applicant must submit a stream relocation plan, prepared by a qualified professional approved by the city that shows the following:

(a) The creation of a natural meander pattern.

(b) The formation of gentle side slopes, at least two feet horizontally to one foot vertically, and the installation of erosion control features for stream side slopes.

(c) The creation of a narrow subchannel, where feasible, against the south or west bank.

(d) The utilization of natural materials, wherever possible.

(e) The use of vegetation normally associated with streams, including primarily native riparian vegetation.

(f) The creation of spawning and nesting areas, wherever appropriate.

(g) The re-establishment of the fish population, wherever feasible.

(h) The restoration of water flow characteristics compatible with fish habitat areas, wherever feasible.

(i) The filling and revegetation of the prior channel.

(j) A proposed phasing plan specifying time of year for all project phases.

(4) The city will allow a stream to be relocated only if water quality, habitat, and stormwater retention capability of the streams will be significantly improved by the relocation. Convenience to the applicant in order to facilitate general site design may not be considered.

(5) Prior to diverting water into the new channel, a qualified professional approved by the city shall inspect the new channel following its completion and issue a written report to the shoreline administrator stating that the channel complies with the requirements of this section.

(6) The amount of flow and velocity of the stream may not be increased or decreased as the stream enters or leaves the subject property.

15.10.190 Culverts.

(1) Culverts are permitted in streams within the shoreline jurisdiction of the City only if approved under this section.

(2) The city will review and decide upon applications under this chapter using process III per Chapter 19.65 FWRC.

(3) The city will allow a stream to be put in a culvert only if:

(a) No significant habitat area will be destroyed; and

(b) No other feasible site design alternative exists, which allows the stream to remain in an open condition. Convenience to the applicant in order to facilitate general site design will not be considered.

(4) The culvert must be designed and installed to allow passage of fish inhabiting or using the stream. The culvert must be large enough to accommodate a 100-year storm.

(5) The applicant shall, at all times, keep all culverts on the subject property free of debris and sediment so as to allow free passage of water and, if applicable, fish. The city shall require a bond under Chapter 19.25 FWRC to ensure maintenance of the culvert approved under this section.

15.10.200 Removal of streams from culverts.

If development of the subject property requires approval through Process I, II, or III of Title 19 FWRC, the city may require the stream to be taken out of the culvert and restored to a natural channel configuration as part of the city's approval of development of the subject property.

15.10.210 Rehabilitation.

The shoreline administrator may permit or require the applicant to rehabilitate or maintain a stream by requiring the removal of detrimental materials such as debris, sediment, and invasive, non-native vegetation. Approval of stream rehabilitation shall be based on a review of a plan containing, at a minimum, an analysis of existing conditions, identification of the source, if possible, of the degradation of the stream or riparian zone, proposed corrective actions, including installation of native species within the riparian corridor, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary. The shoreline administrator shall require an applicant to retain the services of a qualified professional in preparing the restoration plan. These actions may be permitted or required at any time that a condition detrimental to water quality, stability of stream banks, degradation of existing naturally vegetated buffers, or in stream habitat exists. Intrusions into regulated steep slopes and associated setbacks will be allowed for purposes of approved stream rehabilitation projects.

15.10.220 Intrusion into stream setbacks.

(1) *Essential public facilities, public utilities, and other public improvements.* The shoreline administrator may permit the placement of an essential public facility, public utility, or other public improvements in a setback from a stream if he or she determines that the line or improvement must traverse the setback area because no feasible alternative location exists based on an analysis of technology and system efficiency. The specific location and extent of the intrusion into the setback area must constitute the minimum necessary encroachment to meet the requirements of the public facility or utility. "Public utility and other public improvements" shall not include improvements whose primary purpose is to benefit a private development, including without limitation

interior roads or privately owned detention facilities installed within or during the construction of a residential subdivision, binding site plan, or other commercial development.

(2) *Minor improvements.* Minor improvements such as footbridges crossing the stream, walkways, and benches may be located within the setback area if approved through Process III per Chapter 19.65 FWRC, based on the following criteria:

- (a) It will not adversely affect water quality;
- (b) It will not adversely affect the existing quality of wildlife habitat within the stream or setback area;
- (c) It will not adversely affect drainage or stormwater retention capabilities;
- (d) It will not lead to unstable earth conditions nor create erosion hazards;
- (e) It will not be materially detrimental to any other property nor to the city as a whole; and
- (f) It is necessary to correct any one of the adverse conditions specified in subsections (2)(a) through (2)(e) of this subsection.

(3) *Other intrusions.* Other than as specified in subsections (1) and (2) of this section, the city may approve any request to locate an improvement or engage in clearing and grading activities within stream setback areas only through process IV per Chapter 19.70 FWRC, based on the following criteria:

- (a) It will not adversely affect water quality;
- (b) It will not adversely affect the existing quality of wildlife habitat within the stream or setback area;
- (c) It will not adversely affect drainage or stormwater retention capabilities;
- (d) It will not lead to unstable earth conditions nor create erosion hazards;
- (e) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole, including the loss of significant open space; and
- (f) It is necessary for reasonable development of the subject property not otherwise prohibited by the Shoreline Master Program.

15.10.230 Additional requirements for clearing and grading.

If any clearing and grading is permitted within the stream or stream setback area, the applicant shall comply with the following additional requirements:

- (1) All fill material used must be nondissolving and nondecomposing. The fill material must not contain organic or inorganic material that would be detrimental to water quality or the existing habitat.
- (2) The applicant may deposit dredge spoils on the subject property only if part of an approved development on the subject property.
- (3) The applicant shall stabilize all areas left exposed after clearing and grading with native vegetation normally associated with the stream or setback area.

Article VI. Regulated Wetlands

15.10.240 Determination of wetland and regulated wetland.

(1) *Generally.* The March 1997 Washington State Wetlands Identification and Delineation Manual (Department of Ecology Publication No. 96-94) as set forth in WAC 173-22-080, as it exists as of November 1, 1999, or as subsequently amended, will be used for identification and delineation of wetlands within the city. Although a site-specific wetland may not meet the criteria described above, it will be considered a

regulated wetland if it is functionally related to another wetland that meets the criteria. Where vegetation has been removed, a wetland may be determined by the presence of hydric soils, as well as other documentation of the previous existence of wetland vegetation such as aerial photographs.

(2) *Evaluation.* If the city determines that a wetland may exist on or within 200 feet of the subject property, the shoreline administrator shall require the applicant to submit a wetland report, prepared by a qualified professional approved by the city, that includes the information set forth in subsections (2)(a) through (2)(g) and (3) of this section. The shoreline administrator shall use the information required by subsections (2)(a) and (2)(b) to determine if the area is a regulated wetland and, if so, shall use the information required by subsections (2)(c) through (2)(g) and (3) to determine the category and the precise boundaries of that regulated wetland.

(a) An evaluation of whether the area in question is a regulated wetland based upon the definition of wetland and the size thresholds, outlined in FWRC 15,10.250.

(b) An overview of the methodology used to conduct the study.

(c) A description of the wetland and plant communities found therein, a map delineating the edge of the wetland and location of plant communities, and a detailed description of the method used to identify the wetland edge.

(d) The wetland classification, according to the U.S. Fish and Wildlife Service "Classification of Wetlands and Deep Water Habitats in the U.S."

(e) A list of observed plant and wildlife species, using both scientific and common names, and a description of their relative abundance.

(f) A list of potential plant or animal species based on signs or other observation.

(g) An evaluation and assessment of the existing or potential functions and values of the wetland based on the following factors: surface water control; wildlife habitat; pollution and erosion control; groundwater exchange; open space and recreation; and educational and cultural opportunities.

(3) *Drainage facilities.* Surface water ponds, drainage ditches, and other such facilities which were designed to impound or convey water for an engineered purpose are not considered regulated wetlands under this chapter provided they meet all of the following criteria:

(a) The drainage facility must have been intentionally human created. This is to differentiate from those wetland sites that are accidental consequences of development actions, such as road construction or culvert placement. Such sites may be considered regulated wetlands by the director upon a review, under subsection (2)(g) of this section, of the ecological functions and values of the site.

(b) The drainage facility must have been originally constructed on uplands (nonwetland areas). If the drainage facility is located within a straightened, channelized, or otherwise disturbed natural watercourse, it may be considered a regulated wetland by the director upon a review, under subsection (2)(g) of this section, of the ecological functions and values of the site.

(c) The facility must be actively operated as a surface water drainage facility. Abandoned drainage facilities may be considered regulated wetlands by the director upon a review, under subsection (2)(g) of this section, of the ecological functions and values of the site.

(d) Wetland conditions have not expanded beyond the originally constructed drainage facility boundary. In such a case, the expanded area may be considered a regulated wetland by the director upon review, under subsection (2)(g) of this section, of the ecological functions and values of the site.

(e) The drainage facility was not designed or constructed as a requirement to mitigate previous wetland impacts.

(f) The director finds that limited ecological functions and values do not warrant application of the city's wetland regulations.

15.10.250 Wetland categories and standard buffers.

(1) Wetlands are classified into the following categories:

(a) *Category I wetlands* meet one of the following criteria:

(i) Contain the presence of species or documented habitat recognized by state or federal agencies as endangered, threatened, or potentially extirpated plant, fish, or animal species; or

(ii) Contain the presence of plant associations of infrequent occurrence, irreplaceable ecological functions, or exceptional local significance including but not limited to estuarine systems, peat bogs and fens, mature forested wetlands, groundwater exchange areas, significant habitat, or unique educational sites; or

(iii) Have three or more wetland classes, one of which is open water.

(b) *Category II wetlands* are greater than 2,500 square feet in area, do not exhibit the characteristics of Category I wetlands, and meet one of the following criteria:

(i) Are contiguous with water bodies or tributaries to water bodies which under normal circumstances contain or support a fish population, including streams where flow is intermittent; or

(ii) Are greater than one acre in size in its entirety; or

(iii) Are less than or equal to one acre in size in its entirety and have two or more wetland classes, with neither class dominated by non-native invasive species.

(c) *Category III wetlands* are greater than 2,500 square feet in area and do not exhibit those characteristics of Category I or II wetlands.

(2) Standard buffer widths for regulated wetlands are established as follows:

(a) Category I wetlands shall have a standard buffer width of 200 feet.

(b) Category II wetlands shall have a standard buffer width of 100 feet.

(c) Category III wetlands shall have a standard buffer width of 50 feet for wetlands that are greater than 10,000 square feet in area, and shall have a standard buffer width of 25 feet for wetlands that are between 2,500 to 10,000 square feet in area.

15.10.260 Structures, improvements, and clearing and grading within regulated wetlands.

(1) *Generally*. No clearing and grading may take place and no structure or improvement may be located in a regulated wetland except as provided in this section.

(2) *Public park*. The city may allow pedestrian access through a regulated wetland in conjunction with a public park. The access, if approved, must be designed to the maximum extent feasible to protect the wetland from any adverse effects or impacts of the access and to limit the access to the defined access area.

(3) *Rehabilitation*. The shoreline administrator may permit or require an applicant to rehabilitate and maintain a regulated wetland by removing detrimental material such as debris and inappropriate vegetation and by requiring that native vegetation be planted. These actions may be required at any time that a condition detrimental to water quality or habitat exists.

(4) *Modification*. Other than as specified in subsections (2) and (3) of this section, the city may approve any request to locate an improvement or engage in clearing and

grading within a regulated wetland using Process IV per Chapter 19.70 FWRC. The specific location and extent of the intrusion into the regulated wetland must constitute the minimum necessary encroachment. Approval of a request for improvements or clearing and grading within a regulated wetland through Process IV of FWRC Chapter 19 shall be based on the following criteria:

- (a) It will not adversely affect water quality.
- (b) It will not adversely affect the existing quality of the wetland's or buffer's wildlife habitat.
- (c) It will not adversely affect drainage or stormwater retention capabilities.
- (d) It will not lead to unstable earth conditions nor create erosion hazards.
- (e) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole, including the loss of open space.
- (f) It will result in no net loss of wetland area, function, or value.
- (g) The project is in the best interest of the public health, safety, or welfare.
- (h) The applicant has demonstrated sufficient scientific expertise and supervisory capability to carry out the project.
- (i) The applicant is committed to monitoring the project and to making corrections if the project fails to meet projected goals.

(5) *Required information.* As part of any request under this section, the applicant shall submit a report, prepared by a qualified professional approved by the city that includes the following information:

(a) *Mitigation plan.* A mitigation plan shall include the following elements:

- (i) Environmental goals and objectives.
- (ii) Performance standards.
- (iii) Detailed construction plans.
- (iv) Timing.
- (v) Monitoring program for a minimum of five years.
- (vi) Contingency plan.
- (vii) Subject to the applicant's election of timing alternatives provided in subsection (5)(d) of this section, a performance and maintenance bond in an amount of 120 percent of the costs of implementing the mitigation plan or the contingency plan, whichever is greater.

(b) *Mitigation.* Mitigation of wetland impacts shall be restricted to restoration, creation, or enhancement, within the same basin, of in-kind wetland type which results in no net loss of wetland area, function or value. Where feasible, mitigation measures shall be designed to improve the functions and values of the impacted wetland.

(c) *Minimum acreage mitigation ratio.* The following are ratios for providing restoration, creation, or enhancement of impacted wetland areas. The first number of the ratio specifies the acreage of wetland requiring restoration, creation, or replacement and the second specifies the acreage of wetlands impacted.

Wetland Category	Creation and Restoration	Enhancement
Category I (all types)	6:1	12:1
Category II:		
Forested	3:1	6:1

Wetland Category	Creation and Restoration	Enhancement
Scrub/Shrub	2:1	4:1
Emergent	2:1	4:1
Category III:		
Forested	2:1	4:1
Scrub/Shrub	1.5:1	3:1
Emergent	1.25:1	2.5:1

The director may permit or require the above replacement ratios to be increased or decreased based on the following criteria:

- (I) Probable success of the proposed mitigation.
- (II) Projected losses in function or value.
- (III) Findings of special studies coordinated with agencies with expertise which demonstrate that no net loss of wetland function or value is attained under an alternative ratio.
- (IV) In no case shall the minimum acreage replacement ratio be less than 1.25:1.

(d) *Timing.* All required wetland mitigation improvements, including monitoring, shall be completed and accepted by the shoreline administrator prior to beginning activities that will disturb regulated wetlands, or the applicant shall provide the performance and maintenance bond specified in subsection (5)(a)(vii) of this section. In either event, the applicant may not take any action that disturbs a regulated wetland or its buffer until the director has reviewed and approved the mitigation plan. All wetland- or buffer-disturbing activities, and all mitigation, shall be timed to reduce impacts to existing plants and animals.

(e) *Inspections.* The applicant shall pay for services of a qualified professional selected and retained by the city to review the wetland mitigation report and other relevant information, conduct periodic inspections, issue a written report to the shoreline administrator stating that the project complies with requirements of the mitigation plan, and to conduct and report to the director on the status of the monitoring program.

15.10.270 Structures, improvements, and clearing and grading within regulated wetland buffers.

(1) *Generally.* Except as allowed in this section, no clearing and grading may take place and no structure or improvement may be located within a regulated wetland buffer.

(2) *Wetland buffer averaging.* Wetland buffers may be averaged only when the wetland or the buffer which is proposed to be reduced contains habitat types which have been so permanently impacted that reduced buffers do not pose a detriment to the existing or expected habitat functions. Through Process III per Chapter 19.65 FWRC, the applicant must demonstrate to the satisfaction of the shoreline administrator that the proposed buffer averaging will meet all of the following criteria:

- (a) Reduced buffers will not affect the water quality entering a wetland or stream;
- (b) Reduced buffers will not adversely affect the existing quality of wildlife habitat within the wetland or the buffer;

(c) Reduced buffers will not result in unstable earth conditions nor create erosion hazards; and

(d) Reduced buffers will not be detrimental to any other public or private properties, including the loss of open space.

At no point shall the buffer width be reduced to less than 50 percent of the required standard buffer width, unless the buffer, in existing conditions, has already been permanently eliminated by previous, legally permitted actions. The total area contained within the buffer after averaging shall be equal to the area required for standard buffer dimensions.

(3) *Essential public facilities, public utilities, and other public improvements.* The shoreline administrator may permit the placement of an essential public facility, public utility, or other public improvements in a regulated wetland buffer if he or she determines that the line or improvement must traverse the buffer because no feasible or alternative location exists based on an analysis of technology and system efficiency. The specific location and extent of the intrusion into the buffer must constitute the minimum necessary encroachment to meet the requirements of the public facility or utility.

(4) *Minor improvements.* Minor improvements such as footbridges, walkways, and benches may be located within the buffer from a regulated wetland if approved through Process III per Chapter 19.65 FWRC, based on the following criteria:

(a) It will not adversely affect water quality;

(b) It will not adversely affect the existing quality of the wetland's or buffer's wildlife habitat;

(c) It will not adversely affect drainage or stormwater retention capabilities;

(d) It will not lead to unstable earth conditions nor create erosion hazards; and

(e) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole.

(5) *Wetland buffer reduction.* Through Process III per Chapter 19.65 FWRC, the shoreline administrator may reduce the standard wetland buffer width by up to 50 percent, but in no case to less than 25 feet, on a case-by-case basis, if the project includes a buffer enhancement plan which utilizes appropriate native vegetation and clearly substantiates that an enhanced buffer will improve and provide additional protection of wetland functions and values, and where one of the following conditions can be demonstrated:

(a) Existing conditions are such that the required standard buffer exists in a permanently altered state (e.g., roadways, paved parking lots, permanent structures, etc.) which does not provide any buffer function, then the buffer can be reduced for that portion where the intrusions are existing.

(b) Except for Category I wetlands, existing conditions are such that the wetland has been permanently impacted by adjacent development activities, as evidenced by such things as persistent human alterations or the dominance of non-native invasive species.

The director shall have the authority to determine if buffer averaging is warranted on the subject property and, if so, may require additional buffer area on other portions of the perimeter of the sensitive area.

(6) *Modification.* Other than as specified in subsections (2) and (3) of this section, the city may approve any request to locate an improvement or engage in clearing and grading within the buffer from a regulated wetland through Process IV per Chapter 19.70 FWRC, based on the following criteria:

- (a) It will not adversely affect water quality;
- (b) It will not adversely affect the existing quality of the wetland's or buffer's wildlife habitat;
- (c) It will not adversely affect drainage or stormwater retention capabilities;
- (d) It will not lead to unstable earth conditions nor create erosion hazards; and
- (e) It will not be materially detrimental to any other property in the area of the subject property nor to the city as a whole, including the loss of open space.

Any modification under this subsection shall not reduce the standard buffer by more than 50 percent, and in no case shall the remaining buffer be less than 25 feet. The city may require, as a condition to any modification granted under this subsection, preparation and implementation of a wetland buffer enhancement plan to protect wetland and buffer functions and values.

(7) *Revegetation.* The applicant shall stabilize all areas left exposed after clearing and grading with native vegetation normally associated with the buffer.

(8) *Wetland buffer increases.* The director shall require increased environmentally sensitive area buffer widths on a case-by-case basis when the director determines that a larger buffer is necessary to protect environmentally sensitive area functions, values, or hazards based on site-specific conditions. This determination shall be supported by appropriate documentation showing that additional buffer width is reasonably related to protection of environmentally sensitive area functions and values, or protection of public health, safety, and welfare. Such determination shall be attached as permit conditions. The determination shall demonstrate that at least one of the following factors is met:

(a) There is habitat for species listed as threatened or endangered by state or federal agencies present within the sensitive area and/or its buffer, and additional buffer is necessary to maintain viable functional habitat;

(b) There are conditions or features adjacent to the buffer, such as steep slopes or erosion hazard areas, which over time may pose an additional threat to the viability of the buffer and/or the sensitive area. In such circumstances, the city may choose to impose those buffers, if any, associated with the condition or feature posing the threat in addition to, or to a maximum, beyond the buffer required for the subject sensitive area.

Article VII. Critical Aquifer Recharge Areas and Wellhead Protection Areas

15.10 280 Limitations.

This division regulates any development activity, or division of land which requires review under Title 14 FWRC, Environmental Policy, and which is located within designated wellhead capture zones. Wellhead Capture Zones 1, 2, and 3 are designated as critical aquifer recharge areas under the provisions of the Growth Management Act (Chapter 36.70A RCW) and are established based on proximity to and travel time of groundwater to the city's public water source wells. This division shall not apply to projects that have received a letter of completeness prior to the effective date of the amendments.

15.10.290 Classification of wellhead capture zones.

The Lakehaven Utility District (LUD) has designated three wellhead capture zones based on proximity to and travel time of groundwater to the city's public water source wells.

(1) Wellhead Capture Zone 1 represents the land area overlaying the one-year time-of-travel zone of any public water source well owned by LUD.

(2) Wellhead Capture Zone 2 represents the land area overlaying the five-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in Wellhead Capture Zone 1.

(3) Wellhead Capture Zone 3 represents the land area overlaying the 10-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in Wellhead Capture Zones 1 or 2.

15.10.300 General requirements.

(1) Activities may only be permitted in a critical aquifer recharge area and wellhead protection area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer.

(2) The city shall impose development conditions to prevent degradation of the critical aquifer recharge and wellhead protection areas. All conditions to permits shall be based on known, available, and reasonable methods of prevention, control, and treatment (AKART).

(3) The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Ecology, State Department of Health, and the King County health department.

(4) The proposed activity must be designed and constructed in accordance with the King County Surface Water Design Manual (KCSWDM), the Federal Way Addendum to the KCSWDM, and the King County Stormwater Pollution Control Manual (BMP manual).

15.10.310 Prohibited activities in Wellhead Capture Zone 1.

(1) Land uses or activities for development that pose a significant hazard to the city's groundwater resources resulting from storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances shall be prohibited in Wellhead Capture Zone 1, except as specified in FWRC 19.30.170. These land uses and activities include, but are not limited to:

(a) On-site community sewage disposal systems as defined in Chapter 248-272 WAC;

(b) Hazardous liquid pipelines as defined in Chapter 81.88 RCW;

(c) Solid waste landfills;

(d) Solid waste transfer stations;

(e) Liquid petroleum refining, reprocessing, and storage;

(f) The storage or distribution of gasoline treated with the additive MTBE;

(g) Hazardous waste treatment, storage, and disposal facilities (except those defined under permit by rule for industrial wastewater treatment processes per WAC 173-303-802(5)(c));

(h) Chemical manufacturing, including but not limited to organic and inorganic chemicals, plastics and resins, pharmaceuticals, cleaning compounds, paints and lacquers, and agricultural chemicals;

(i) Dry cleaning establishments using the solvent perchloroethylene;

(j) Primary and secondary metal industries that manufacture, produce, smelt, or refine ferrous and nonferrous metals from molten materials;

(k) Wood treatment facilities, including wood preserving and wood products preserving;

(l) Mobile fleet fueling operations;

- (m) Mining (metal, sand, and gravel); and
- (n) Other land uses and activities that the city determines would pose a significant groundwater hazard to the city's groundwater supply.

(2) The uses listed in subsection 1 of this section represent the state of present knowledge and most common description of said uses. As other polluting uses are discovered, or other terms of description become necessary, they will be added to the list of uses prohibited within this zone.

15.10.320 Regulation of facilities handling and storing hazardous materials.

(1) Any development activity or division of land which requires review under Title 14 FWRC, Environmental Policy, located in critical aquifer recharge areas (Wellhead Capture Zones 1, 2, and 3) shall submit a hazardous materials inventory statement with a development permit application. Ongoing operation and maintenance activities of public wells by public water providers are exempt from these requirements.

(2) The development review committee will review the hazardous materials inventory statement along with the land use application, to determine whether hazardous materials meeting the definition of Chapter 19.05 FWRC will be used, stored, transported, or disposed of in connection with the proposed activity. The development review committee shall make the following determination:

(a) No hazardous materials are involved.

(b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance.

(c) Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge areas and wellhead capture zones; however, sufficient information is not available to evaluate the potential impact of contamination. The city may require a hydrogeologic critical area assessment report to be prepared by a qualified groundwater scientist in order to determine the potential impacts of contamination on the aquifer. The report shall include the following site- and proposal-related information, at a minimum:

(i) Information regarding geologic and hydrogeologic characteristics of the site, including the surface location of the wellhead capture zone in which it is located and the type of infiltration of the site.

(ii) Groundwater depth, flow direction, and gradient.

(iii) Location of other critical areas, including surface waters, within 200 feet of the site.

(iv) Best management practices (BMPs) and integrated pest management (IPM) proposed to be used, including:

(A) Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features;

(B) Predictive evaluation of contaminant transport based on potential releases to groundwater; and

(C) Predictive evaluation of changes in the infiltration/recharge rate.

(3) A spill containment and response plan may be required to identify equipment and/or structures that could fail, and shall include provisions for inspection as required by the applicable state regulations.

(4) A groundwater monitoring plan may be required to monitor quality and quantity of groundwater, surface water runoff, and/or site soils. The city may require the owner of a facility to install one or more groundwater monitoring wells to accommodate the required

groundwater monitoring. Criteria used to determine the need for site monitoring shall include, but not be limited to, the proximity of the facility to production or monitoring wells, the type and quantity of hazardous materials on site, and whether or not the hazardous materials are stored in underground vessels.

(5) The city may employ an outside consultant at the applicant's expense for third-party review of the hydrogeologic critical area assessment report, the spill containment and response plan, and the groundwater monitoring plan.

15.10.330 Performance standards.

(1) Any new or existing use applying for a development permit, or subdivision approval which requires review under Title 14 FWRC, Environmental Policy, within Wellhead Capture Zone 1, which involves storing, handling, treating, using, producing, recycling, or disposing of hazardous materials or other deleterious substances meeting the definition of Chapter 19.05 FWRC shall comply with the following standards:

(a) Secondary containment.

(i) The owner or operator of any facility or activity shall provide secondary containment for hazardous materials or other deleterious substances in quantities specified in the International Fire Code.

(ii) Hazardous materials stored in tanks that are subject to regulation by the Washington State Department of Ecology under Chapter 173-360 WAC (Underground Storage Tank Regulations) are exempt from the secondary containment requirements of this section; provided, that documentation is provided to demonstrate compliance with those regulations.

(b) Design and construction of new stormwater infiltration systems must address site-specific risks of releases posed by all hazardous materials on site. These risks may be mitigated by physical design means, or equivalent best management practices, in accordance with an approved hazardous materials management plan. Design and construction of said stormwater infiltration systems shall also be in accordance with the KCSWDM, as amended by the city of Federal Way, and shall be certified for compliance with the requirements of this section by a professional engineer or engineering geologist registered in the state of Washington.

(c) The following standards shall apply to construction activities occurring where construction vehicles will be refueled on site, and/or hazardous materials meeting the definition of Chapter 19.05 FWRC will be stored, dispensed, used, or handled on the construction site. As part of the city's project permitting process, the city may require any or all of the following items:

(i) Detailed monitoring and construction standards;

(ii) Designation of a person on site during operating hours who is responsible for supervising the use, storage, and handling of hazardous materials, and who has appropriate knowledge and training to take mitigating actions necessary in the event of a fire or spill;

(iii) Hazardous material storage, dispensing, refueling areas, and use and handling areas shall be provided with secondary containment adequate to contain the maximum release from the largest volume container of hazardous materials stored at the construction site;

(iv) Practices and procedures to ensure that hazardous materials left on site when the site is unsupervised are inaccessible to the public. Locked storage sheds, locked fencing, locked fuel tanks on construction vehicles, or other techniques may be used to preclude access;

(v) Practices and procedures to ensure that construction vehicles and stationary equipment that are found to be leaking fuel, hydraulic fluid, and/or other hazardous materials will be removed immediately, or repaired on-site immediately. The vehicle or equipment may be repaired in place, provided the leakage is completely contained;

(vi) Practices and procedures to ensure that storage and dispensing of flammable and combustible liquids from tanks, containers, and tank trucks into the fuel and fluid reservoirs of construction vehicles or stationary equipment on the construction site are in accordance with the International Fire Code; and

(vii) Practices and procedures, and/or on-site materials adequate to ensure the immediate containment and cleanup of any release of hazardous substances stored at the construction site. On-site cleanup materials may suffice for smaller spills, whereas cleanup of larger spills may require a subcontract with a qualified cleanup contractor. Releases shall immediately be contained, cleaned up, and reported according to state requirements.

(2) Any development activity, or division of land which requires review under Title 14 FWRC, Environmental Policy, within all wellhead capture zones (1, 2, and 3), which involve storing, handling, treating, using, producing, recycling, or disposing of hazardous materials, or other deleterious substances, meeting the definition of Chapter 19.05 FWRC shall comply with the following standards:

(a) Fleet and automotive service station fueling, equipment maintenance, and vehicle washing areas shall have a containment system for collecting and treating all runoff from such areas and preventing release of fuels, oils, lubricants, and other automotive fluids into the soil, surface water, or groundwater. Appropriate emergency response equipment shall be kept on site during the transfer, handling, treatment, use, production, recycling, or disposal of hazardous materials or other deleterious substances.

(b) Secondary containment or equivalent best management practices, as approved by the director of community development services, shall be required at loading and unloading areas that store, handle, treat, use, produce, recycle, or dispose of hazardous materials, or other deleterious substances, meeting the definition of Chapter 19.05 FWRC.

(c) Fill material shall not contain concentration of contaminants that exceed cleanup standards for soil as specified in the Model Toxics Control Act (MTCA). An imported fill source statement is required for all projects where more than 100 cubic yards of fill will be imported to a site. The city may require analytical results to demonstrate that fill materials do not exceed cleanup standards. The imported fill source statement shall include:

- i. Source location of imported fill;
- ii. Previous land uses of the source location; and
- iii. Whether or not fill to be imported is native soil.

(d) All development or redevelopment shall implement best management practices (BMPs) for water quality and quantity, as approved by the director of community development services. Such practices include biofiltration swales and use of oil-water separators, BMPs appropriate to the particular use proposed, cluster development, and limited impervious surfaces.

15.10.340 Use of pesticides, herbicides, and fertilizers in critical aquifer recharge areas and wellhead protection areas.

Proposed developments with maintained landscaped areas greater than 10,000 square feet in area which require review under Title 14 FWRC, Environmental Policy, shall prepare an operations and management manual using best management practices (BMPs) and integrated pest management (IPM) for fertilizer and pesticide/herbicide applications. The BMPs shall include recommendations on the quantity, timing, and type of fertilizers applied to lawns and gardens to protect groundwater quality.

Chapter 15.15 FLOOD DAMAGE PREVENTION

Article I. Generally

15.15.010 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets; and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.15.020 Adoption of state and federal statutes and regulations.

The following state statutes and administrative regulations, as currently existing and hereafter amended, are hereby adopted by this reference as if set forth in full:

- (1) Chapter 86.16 RCW, Floodplain Management.
- (2) 44 CFR 59.22(a)
- (3) 44 CFR 60.3(c)(1)(d)(2)
- (4) 44 CFR 60.3(b)(1)
- (5) 44 CFR 59.22(b)(1)
- (6) 44 CFR 60.3(a)(2)

15.15.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

15.15.040 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning. Unless specifically defined below, terms or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Appeal means a request for a review of the interpretation of any provision of this chapter or a request for a flood variance.

Area of shallow flooding means designated as AO or AH zone on the flood insurance rate map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

Area of special flood hazard means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designated on flood insurance rate maps by the letters A or V.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE, or V.

Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

Director means the director of the city of Federal Way community development department or his or her designee.

Elevated building means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Elevation certificate means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Federal Way.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

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

Flood insurance study (FIS) means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Flood variance means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at FWRC 15.15.140, provided there are adequate flood ventilation openings.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New construction means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

Recreational vehicle means a vehicle:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and

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

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start” of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

(3) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(4) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Water dependent means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Article II. Provisions

15.15.050 General provisions.

(1) *Application of chapter.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of Federal Way. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Federal Way” dated May 16, 1995, and any

revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at Federal Way City Hall. The best available information for flood hazard area identification as outlined in FWRC 15.15.070 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under FWRC 15.15.070.

(2) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

(3) *Summary abatement.* Whenever any violation of this chapter causes or creates a condition, the continued existence of which constitutes or contributes to an immediate and emergent threat to the public health, safety or welfare or to the environment, the director may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after abatement. The costs of such summary abatement shall be recoverable via procedures for recovery of abatement costs as set forth in Chapter 1.15 FWRC, Civil Enforcement of Code.

(4) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(5) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(6) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Federal Way, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.15.060 Permits.

(1) *Development permit required.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in FWRC 15.15.050(1). The permit shall be for all structures including manufactured homes, as set forth in FWRC 15.15.040, and for all development including fill and other activities, also as set forth in FWRC 15.15.040.

(2) *Application for development permit.* Application for a development permit shall be made and will include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the city of Federal Way building official;

(b) Elevation in relation to mean sea level to which any structure has been floodproofed;

(c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in FWRC 15.15.140(2);

(d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(3) *Designation of the administrator.* The director or designee is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The director shall:

(a) Review all development applications to determine that the requirements of this chapter have been satisfied;

(b) Review all development applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and

(c) Review all development applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of FWRC 15.15.160(1) are met.

15.15.070 Use of other base flood data (in A and V zones).

When base flood elevation data has not been provided (in A or V zones) in accordance with FWRC 15.15.050(1), the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer FWRC 15.15.140, Specific standards, and FWRC 15.15.160, Floodways.

15.15.080 Information to be obtained and maintained.

(1) Where base flood elevation data is provided through the FIS, FIRM, or required as in FWRC 15.15.070, the applicant shall obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement and provide such information to the director or designee on a current FEMA elevation certificate (FEMA Form 81-31). Section B will be completed by the city.

(2) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in FWRC 15.15.070, the applicant shall obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed and provide such information to the city. The city shall maintain the floodproofing certifications required in FWRC 15.15.060(2)(c).

(3) The city shall maintain for public inspection all records pertaining to the provisions of this chapter.

15.15.090 Alteration of watercourses.

The city shall notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and shall require that maintenance is provided

within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

15.15.100 Conditions for flood variances.

(1) Generally, flood variance requests for proposals located within the shoreline jurisdiction shall be processed through the shoreline variance procedures in FWRC 15.05.160. The only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance increases.

(2) Flood variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Flood variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Flood variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing laws or ordinances.

(5) Flood variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature; and do not pertain to the structure, its inhabitants, economic, or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

(6) Flood variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (a) of this section and otherwise complies with FWRC 15.15.110(1) and (3), and 15.15.120.

(7) Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk.

15.15.110 Provisions for flood hazard reduction.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Construction materials and methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(b) Water wells shall be located on high ground that is not in the floodway;

(c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(d) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15.15.120 Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize or eliminate flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

15.15.130 Review of building permits.

Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (FWRC 15.15.070), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding as determined by the director. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

15.15.140 Specific standards.

The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth in FWRC 15.15.050(1) or 15.15.070.

(1) *Residential construction.*

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard and are often inadvertently permitted. Insurance rates reflect an “all or nothing” standard. Partially ventilated crawlspaces may be subject to an additional loading fee of 20 to 25 percent attached to the annual insurance premium.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the official as set forth in FWRC 15.15.060(2);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section.

Applicants who are floodproofing nonresidential buildings should beware that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

(3) *Manufactured homes.* All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(4) *Recreational vehicles.* Recreational vehicles placed on sites are required to either:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Meet the requirements of subsection (3) of this section and the elevation and anchoring requirements for manufactured homes.

15.15.150 AE and A1-30 zones with base flood elevations but no floodways.

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community’s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

15.15.160 Floodways.

Located within areas of special flood hazard established in FWRC 15.15.050(1) are areas designated as floodways. Chapter 86.16 RCW will need to be consulted in addition to this code. The more restrictive provisions shall apply. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

(1) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (1) before the repair, or reconstruction is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

(3) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of FWRC 15.15.110, Provisions for flood hazard reduction.

15.15.170 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.