# SEPA ENVIRONMENTAL CHECKLIST

### *Purpose of checklist:*

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

### *Instructions for applicants:*

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

### *Instructions for Lead Agencies:*

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

### *Use of checklist for nonproject proposals:*

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements – that do not contribute meaningfully to the analysis of the proposal.

## *A. Background* [HELP]

1. Name of proposed project, if applicable:

   Whitman County Shoreline Master Program (SMP) Coalition – 2023 Periodic Review

2. Name of applicant: Whitman County

3. Address and phone number of applicant and contact person:

   *Contact:* Alan Thomson
   Whitman County Planning Department
   310 N Main Street
   Colfax, WA 99111
   Alan.Thomson@whitmancounty.net
   (509) 397-6206

4. Date checklist prepared: January 9, 2023

5. Agency requesting checklist: Whitman County

6. Proposed timing or schedule (including phasing, if applicable):

   A public hearing seeking comments on the Whitman County SMP Coalition's periodic review and proposed SMP amendments will be held by the Whitman County Planning Commission on February 15, 2023.

   The Coalition has elected to use the optional joint review process to combine the local and Ecology comment periods, as allowed under WAC 173-26-104. Once all comments have been incorporated and Ecology approval is received, each of the seven Coalition jurisdictions (Whitman County; Town of Albion; City of Colfax; City of Palouse; City of Pullman; Town of Rosalia; and City of Tekoa) will then adopt its respective SMP locally no later than June 30, 2023.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

   Not applicable; this is a non-project proposal. Site-specific applications for development within shoreline jurisdiction are considered separate actions and will be reviewed by the appropriate local jurisdiction for compliance with its SMP at the time of application.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

   An Ecology Shoreline Master Program Periodic Review Checklist was completed for each of the Coalition communities' SMPs.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

   There are no known applications or proposals pending approval that would affect the proposed SMP amendments. As this is a non-project proposal, no pending applications or approvals would be affected by the proposed amendments. Once adopted, the proposed SMP amendments would apply to any new use or development located within shoreline jurisdiction. Permit applications for development in the shoreline area would be processed by the appropriate local jurisdiction according to the SMP regulations and procedures in effect at the time the application was determined to be complete.

10. List any government approvals or permits that will be needed for your proposal, if known.

The proposed SMP amendments will need the following approvals:

- Review and threshold determination under the State Environmental Protection Act (SEPA) for non-project actions;
- Approval by the Washington State Department of Ecology (RCW 90.58.090); and
- Adoption by the seven respective local jurisdictions comprising the Whitman County SMP Coalition.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The members of the Whitman County Shoreline Master Program (SMP) Coalition propose to amend their respective SMPs consistent with the requirements of Washington's Shoreline Management Act (Ch. 90.58 RCW). Authority for the periodic review is based on the Shoreline Management Act and related rules, and amendments to the Coalition members' SMPs have been prepared consistent with Department of Ecology guidelines (WAC 173-26-201). **These amendments were led by Whitman County as a coalition of County government and participating cities and towns with designated shorelines of the state.** The participating communities include:

- Whitman County
- Town of Albion
- City of Colfax
- City of Palouse
- City of Pullman
- Town of Rosalia
- City of Tekoa

This periodic update is in order to comply with WAC 173-26-090, which requires all local governments to review their SMPs on an eight-year schedule set in state law and revise it if necessary. The review ensures the SMP keeps up with changes in state law; changes in other County, City and Town plans and regulations; and other changed circumstances. The Coalition has elected to use the optional joint review process to combine the local and Ecology comment periods, as allowed under WAC 173-26-104.

Consistent with Ecology's SMP Periodic Review Checklist, proposed amendments to the Coalition members' SMPs include:

- Clarification of exceptions to local review under SMA
- Clarification of shoreline permit exemption for any project designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147
- Addition of new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.)
- Inclusion of most recent OFM-adjusted cost threshold for substantial development
- Addition of language to clarify the definition of "development" excludes dismantling or removing structures, consistent with Ecology permit rules
- Addition of language to clarify that forest practices only involving timber cutting are not SMA "developments" and do not require SDPs, consistent with Ecology forestry use regulations
- Addition of language to clarify SMA does not apply to lands under exclusive federal jurisdiction
- Clarification of "default" provisions for nonconforming uses and development
- Inclusion of a 90-day target for local review of projects on a state highway, pursuant to RCW 47.01.485

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

    This non-project proposal applies to all lands and land uses within shoreline jurisdiction in Whitman County and the participating communities of the Whitman County SMP Coalition. As defined by the Shoreline Management Act (Ch. 90.58 RCW), lands under shoreline jurisdiction within the proposal area include waters of the state and all land within 200 feet landward of their ordinary high-water mark (OHWM), plus any shoreline-associated wetlands.

## *B. Environmental Elements* [HELP]

### *1. Earth* [help]

a. General description of the site:

    (circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____

    Not applicable; this is a non-project proposal.

b. What is the steepest slope on the site (approximate percent slope)?

    Not applicable; this is a non-project proposal.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

    Not applicable; this is a non-project proposal.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

    Not applicable; this is a non-project proposal.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

    Not applicable; this is a non-project proposal.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

    Not applicable; this is a non-project proposal.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

    Not applicable; this is a non-project proposal.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *2. Air* [help]

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable; this is a non-project proposal.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not applicable; this is a non-project proposal.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *3. Water* [help]

a. Surface Water: [help]

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not applicable; this is a non-project proposal.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable; this is a non-project proposal.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable; this is a non-project proposal.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable; this is a non-project proposal.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not applicable; this is a non-project proposal.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable; this is a non-project proposal.

b. Ground Water: [help]

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable; this is a non-project proposal.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable; this is a non-project proposal.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable; this is a non-project proposal.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable; this is a non-project proposal.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable; this is a non-project proposal.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *4. Plants* [help]

a. Check the types of vegetation found on the site:

_____ deciduous tree: alder, maple, aspen, other
_____ evergreen tree: fir, cedar, pine, other
_____ shrubs
_____ grass
_____ pasture
_____ crop or grain
_____ orchards, vineyards or other permanent crops
_____ wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
_____ water plants: water lily, eelgrass, milfoil, other
_____ other types of vegetation

Not applicable; this is a non-project proposal.

b. What kind and amount of vegetation will be removed or altered?

Not applicable; this is a non-project proposal.

c. List threatened and endangered species known to be on or near the site.

Not applicable; this is a non-project proposal.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable; this is a non-project proposal.

e. List all noxious weeds and invasive species known to be on or near the site.

Not applicable; this is a non-project proposal.

### *5. Animals* [help]

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other _____

Not applicable; this is a non-project proposal.

b. List any threatened and endangered species known to be on or near the site.

Not applicable; this is a non-project proposal.

c. Is the site part of a migration route? If so, explain.

Not applicable; this is a non-project proposal.

d. Proposed measures to preserve or enhance wildlife, if any:

Not applicable; this is a non-project proposal.

e. List any invasive animal species known to be on or near the site.

Not applicable; this is a non-project proposal.

### *6. Energy and Natural Resources* [help]

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable; this is a non-project proposal.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable; this is a non-project proposal.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable; this is a non-project proposal.

## *7. Environmental Health* [help]

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Not applicable; this is a non-project proposal.

1) Describe any known or possible contamination at the site from present or past uses.

Not applicable; this is a non-project proposal.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

Not applicable; this is a non-project proposal.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable; this is a non-project proposal.

4) Describe special emergency services that might be required.

Not applicable; this is a non-project proposal.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable; this is a non-project proposal.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable; this is a non-project proposal.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *8. Land and Shoreline Use* [help]

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

Not applicable; this is a non-project proposal.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

Not applicable; this is a non-project proposal.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not applicable; this is a non-project proposal.

c. Describe any structures on the site.

Not applicable; this is a non-project proposal.

d. Will any structures be demolished? If so, what?

Not applicable; this is a non-project proposal.

e. What is the current zoning classification of the site?

Not applicable; this is a non-project proposal.

f. What is the current comprehensive plan designation of the site?

Not applicable; this is a non-project proposal.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable; this is a non-project proposal.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Not applicable; this is a non-project proposal.

i. Approximately how many people would reside or work in the completed project?

Not applicable; this is a non-project proposal.

j. Approximately how many people would the completed project displace?

Not applicable; this is a non-project proposal.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *9. Housing* [help]

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable; this is a non-project proposal.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable; this is a non-project proposal.

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *10. Aesthetics* [help]

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable; this is a non-project proposal.

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable; this is a non-project proposal.

c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *11. Light and Glare* [help]

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable; this is a non-project proposal.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable; this is a non-project proposal.

c. What existing off-site sources of light or glare may affect your proposal?

Not applicable; this is a non-project proposal.

d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *12. Recreation* [help]

a. What designated and informal recreational opportunities are in the immediate vicinity?

Not applicable; this is a non-project proposal.

b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable; this is a non-project proposal.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *13. Historic and Cultural Preservation* [help]

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

Not applicable; this is a non-project proposal.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Not applicable; this is a non-project proposal.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

Not applicable; this is a non-project proposal.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *14. Transportation* [help]

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

Not applicable; this is a non-project proposal.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Not applicable; this is a non-project proposal.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

Not applicable; this is a non-project proposal.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable; this is a non-project proposal.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not applicable; this is a non-project proposal.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not applicable; this is a non-project proposal.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

Not applicable; this is a non-project proposal.

h. Proposed measures to reduce or control transportation impacts, if any:

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

## *15. Public Services* [help]

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not applicable; this is a non-project proposal.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable; this is a non-project proposal. Future site-specific applications for development within the shoreline jurisdiction will be reviewed for environmental impacts by the appropriate local jurisdiction at the time of application.

### *16. Utilities* [help]

a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____

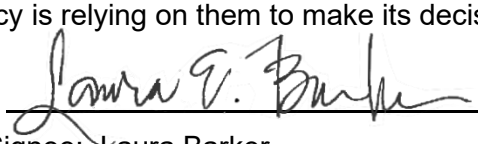
Not applicable; this is a non-project proposal.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable; this is a non-project proposal.

## *C. Signature* [HELP]

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Name of Signee: Laura Barker

Position and Agency/Organization: Planner, SCJ Alliance

Date Submitted: January 9, 2023

## *D. Supplemental Sheet for Nonproject Actions* [HELP]

(**IT IS NOT NECESSARY** to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

   The proposed amendments associated with the periodic review of the Coalition members' SMPs are not anticipated to increase any of the above elements. The proposed amendments are primarily concerned with keeping the SMPs consistent with legislative updates to the Shoreline Management Act and related state laws, changes to local plans/regulations, and making clarifications to improve usability.

   Proposed measures to avoid or reduce such increases are:

   The existing SMPs include restrictions on uses, activities, and development within the shoreline jurisdiction that prevent the discharge of water or release of toxic or hazardous substances into the water. The standard requires no net loss of environmental functions within the shoreline.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

   The proposed amendments are not anticipated to negatively affect plants, animals, fish, or marine life. The proposed amendments are primarily concerned with keeping the SMPs consistent with legislative updates to the Shoreline Management Act and related state laws, changes to local plans/regulations, and making clarifications to improve usability.

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:

   The SMPs include shoreline regulations consistent with Best Available Science, requirements for shoreline mitigation plan submission for specific uses and development actions, and the requirement that applicants demonstrate no net loss of ecological function as a result of their proposal during shoreline permit review.

3. How would the proposal be likely to deplete energy or natural resources?

   The proposed amendments are not anticipated to deplete energy or natural resources. The proposed amendments are primarily concerned with keeping the SMPs consistent with legislative updates to the Shoreline Management Act and related state laws, changes to local plans/regulations, and making clarifications to improve usability.

   Proposed measures to protect or conserve energy and natural resources are:

   The proposal will have no effect on energy conservation but is strongly linked to protecting remaining intact natural resources along the shoreline not already impacted by development.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness,

wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposed amendments are not likely to negatively affect parks, wilderness, or other environmentally sensitive areas. Amendment standards are anticipated to continue to ensure no net loss of shoreline ecological functions.

Proposed measures to protect such resources or to avoid or reduce impacts are:

The existing SMPs establish a standard of no net loss of environmental functions within the shoreline jurisdiction. This is intended to preserve and protect environmentally sensitive and protected areas through the policies and regulations in the SMPs. Provisions of the SMPs also encourage the restoration and enhancement of ecological functions that should positively affect environmentally sensitive and protected areas.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposed amendments are primarily concerned with keeping the SMPs consistent with legislative updates to the Shoreline Management Act and related state laws, changes to local plans/regulations, and making clarifications to improve usability.

Proposed measures to avoid or reduce shoreline and land use impacts are:

The proposal itself aims to improve the compatibility of land use and shoreline plans.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposed amendments associated with the periodic review of the Coalition members' SMPs are not anticipated to increase demands on transportation or public services and utilities. The proposed amendments are primarily concerned with keeping the SMPs consistent with legislative updates to the Shoreline Management Act and related state laws, changes to local plans/regulations, and making clarifications to improve usability.

Proposed measures to reduce or respond to such demand(s) are:

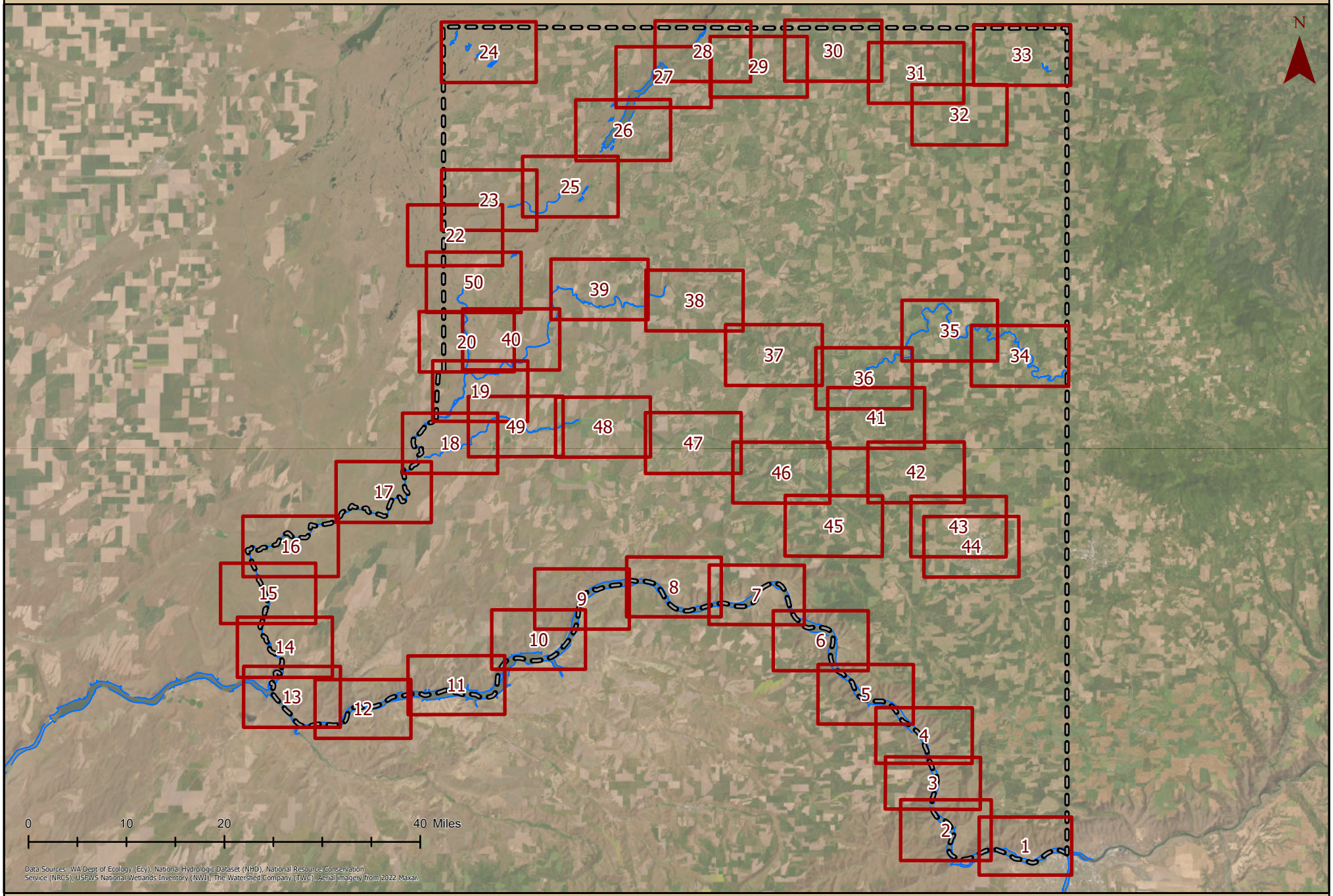
No such measures are needed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

This non-project proposal includes amendments associated with the periodic review of the Coalition members' SMPs, which is required to be completed under the Washington State Shoreline Management Act (Ch. 90.58 RCW). Objectives of the periodic review include keeping the SMPs current with amendments to state laws and changes to local plans and regulations.

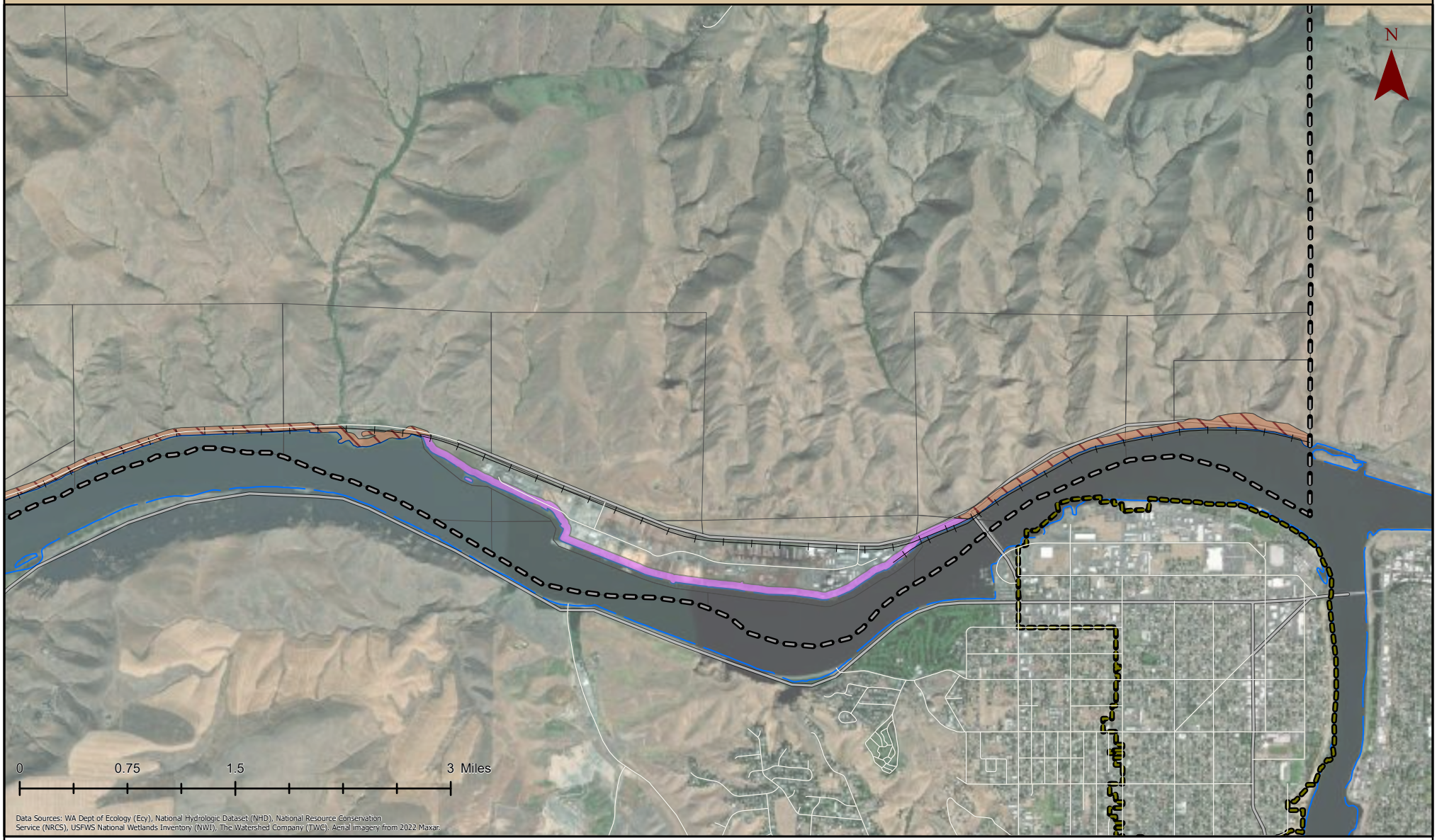
# Whitman County - Shoreline Masterplan Maps

## Official Shoreline Maps



# Whitman County - Snake River - 1

## Official Shoreline Maps



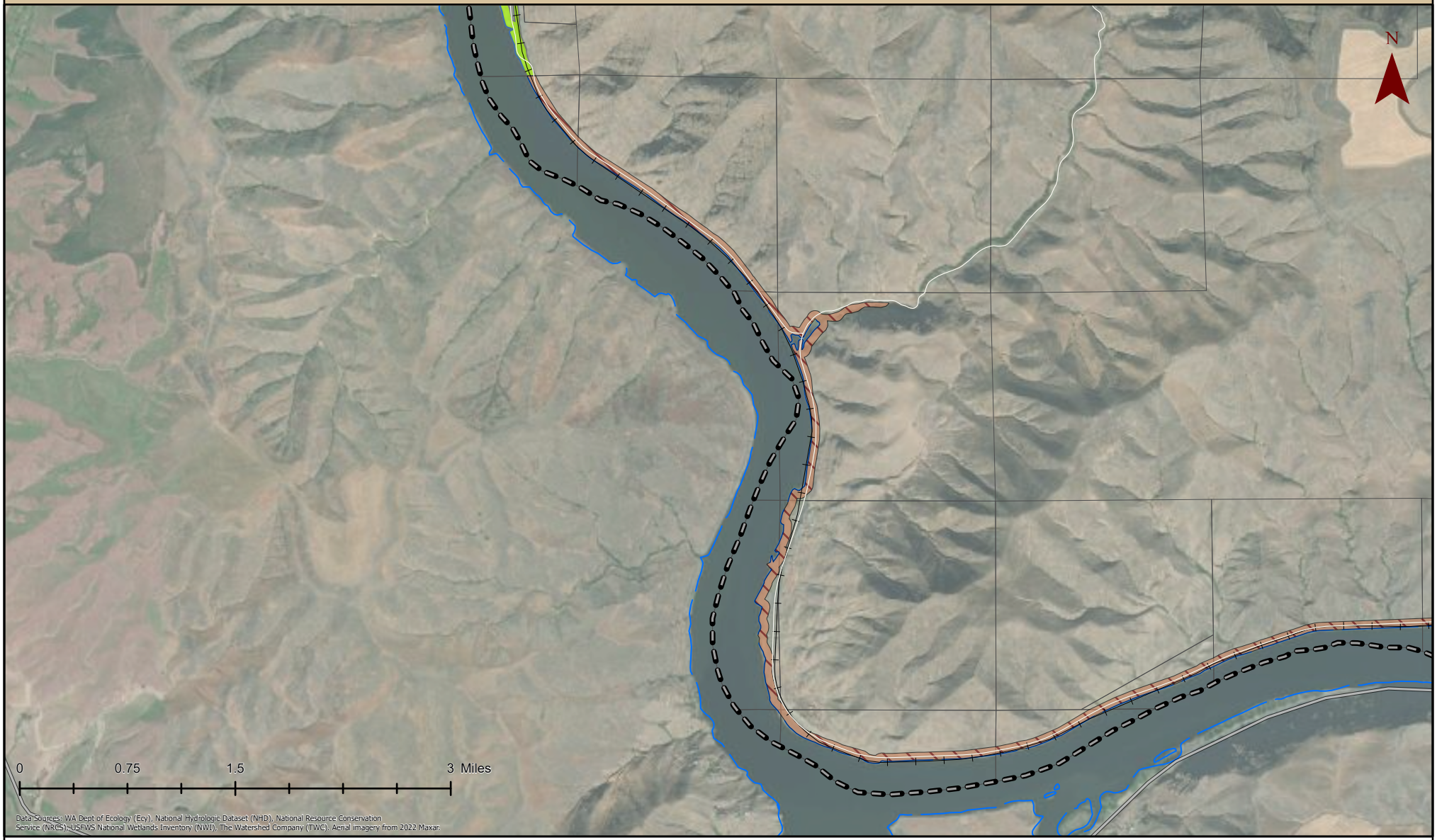

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 2

## Official Shoreline Maps



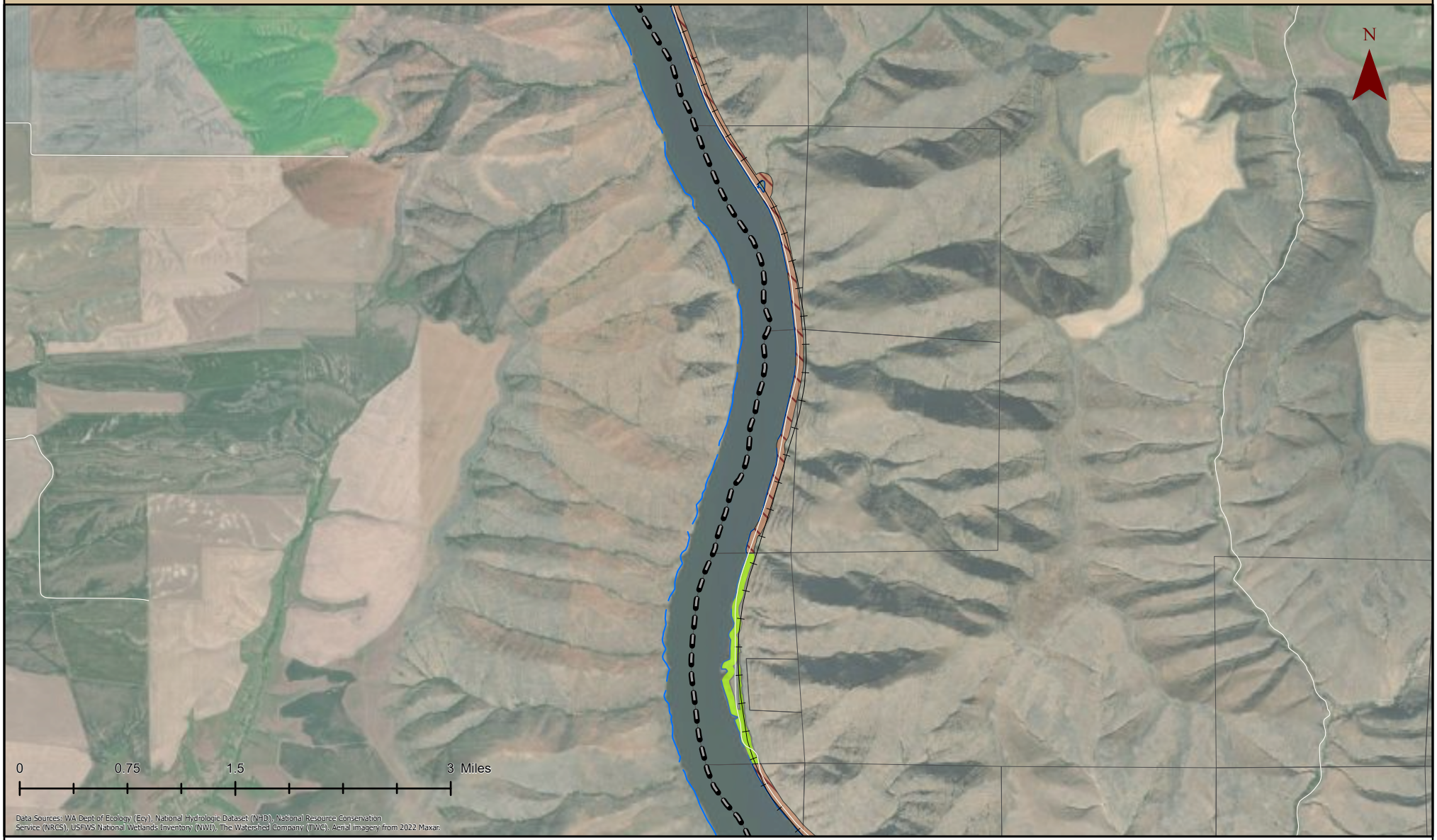

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 3

## Official Shoreline Maps



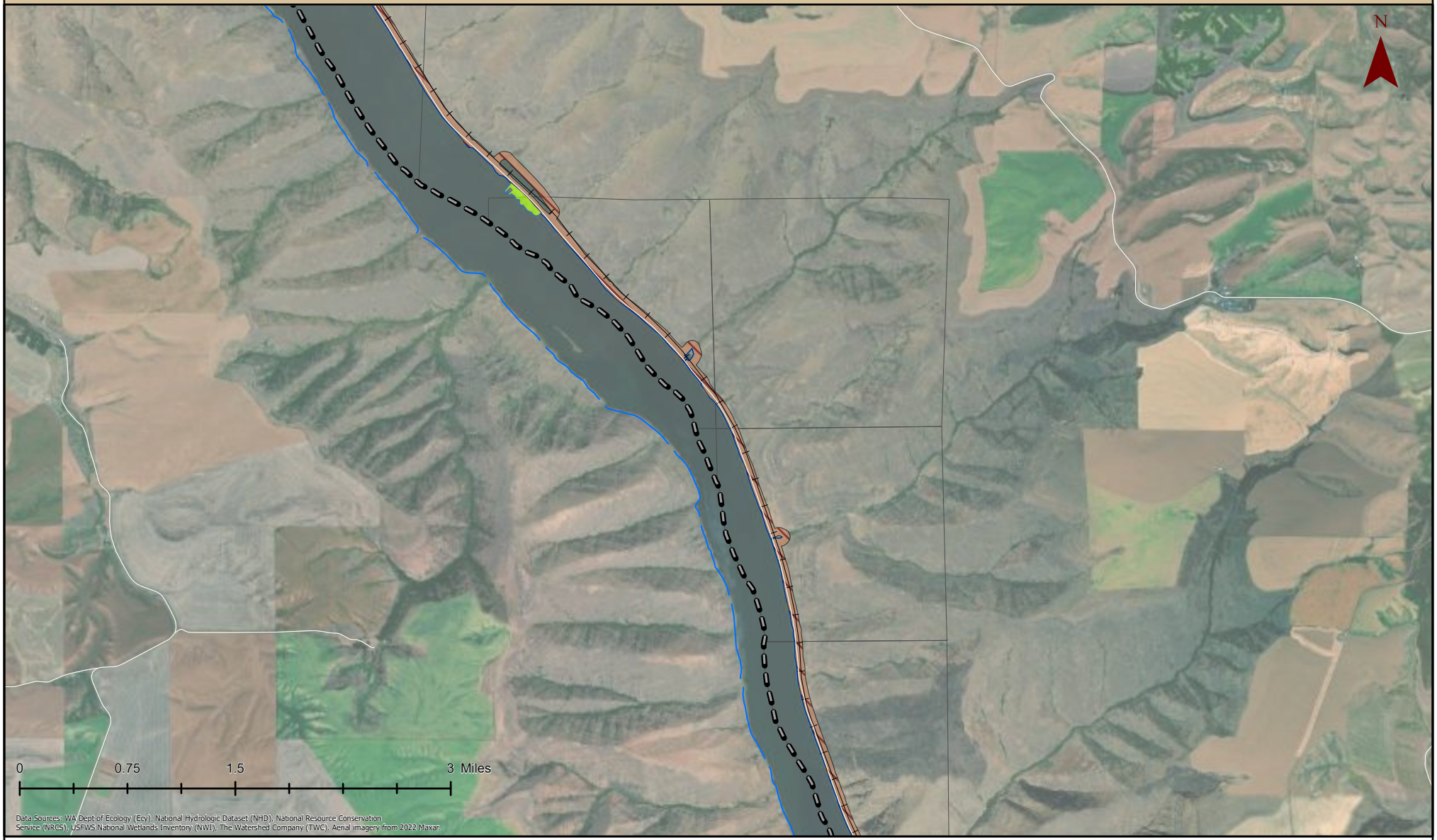

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 4

## Official Shoreline Maps



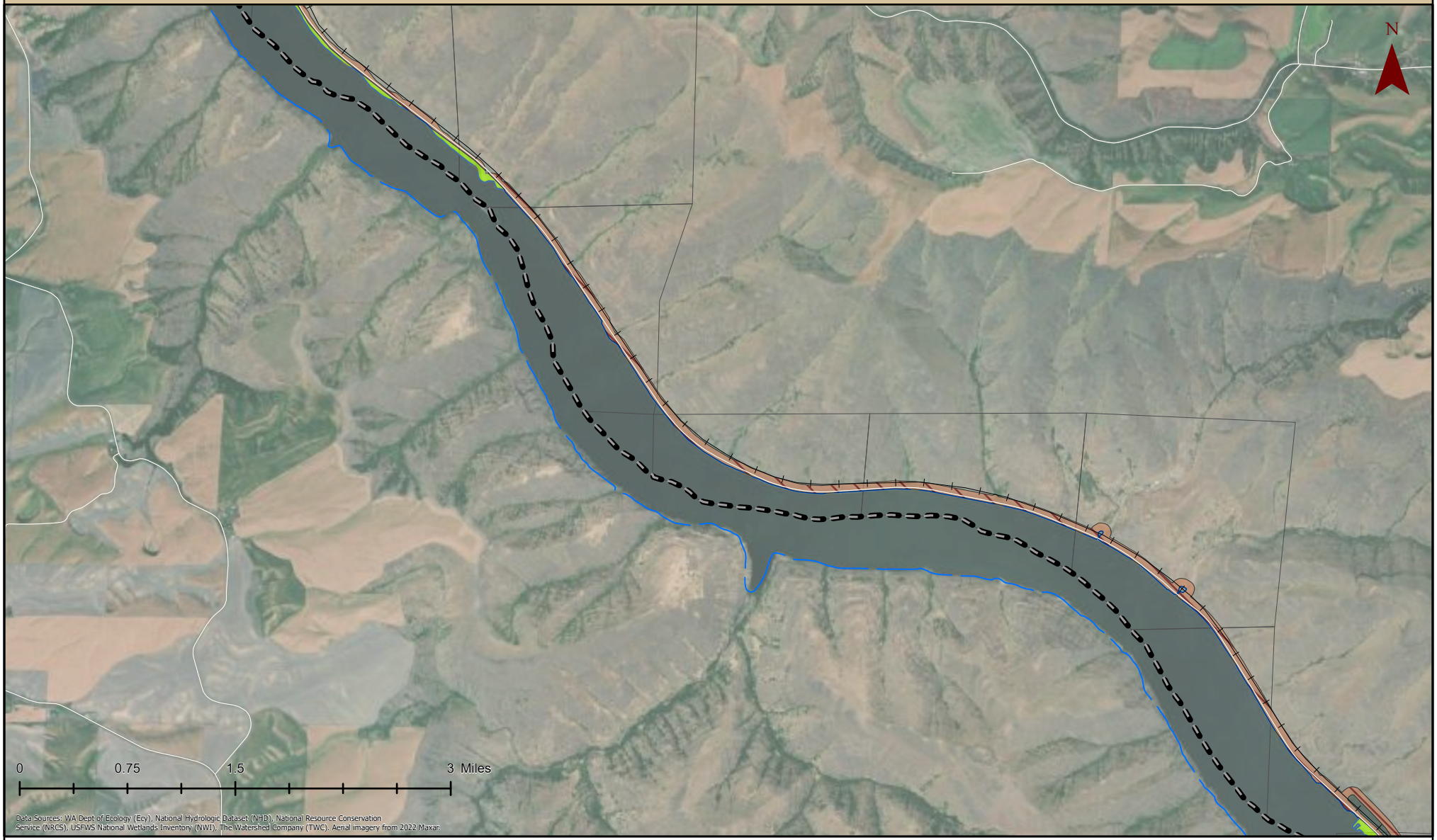

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 5

## Official Shoreline Maps



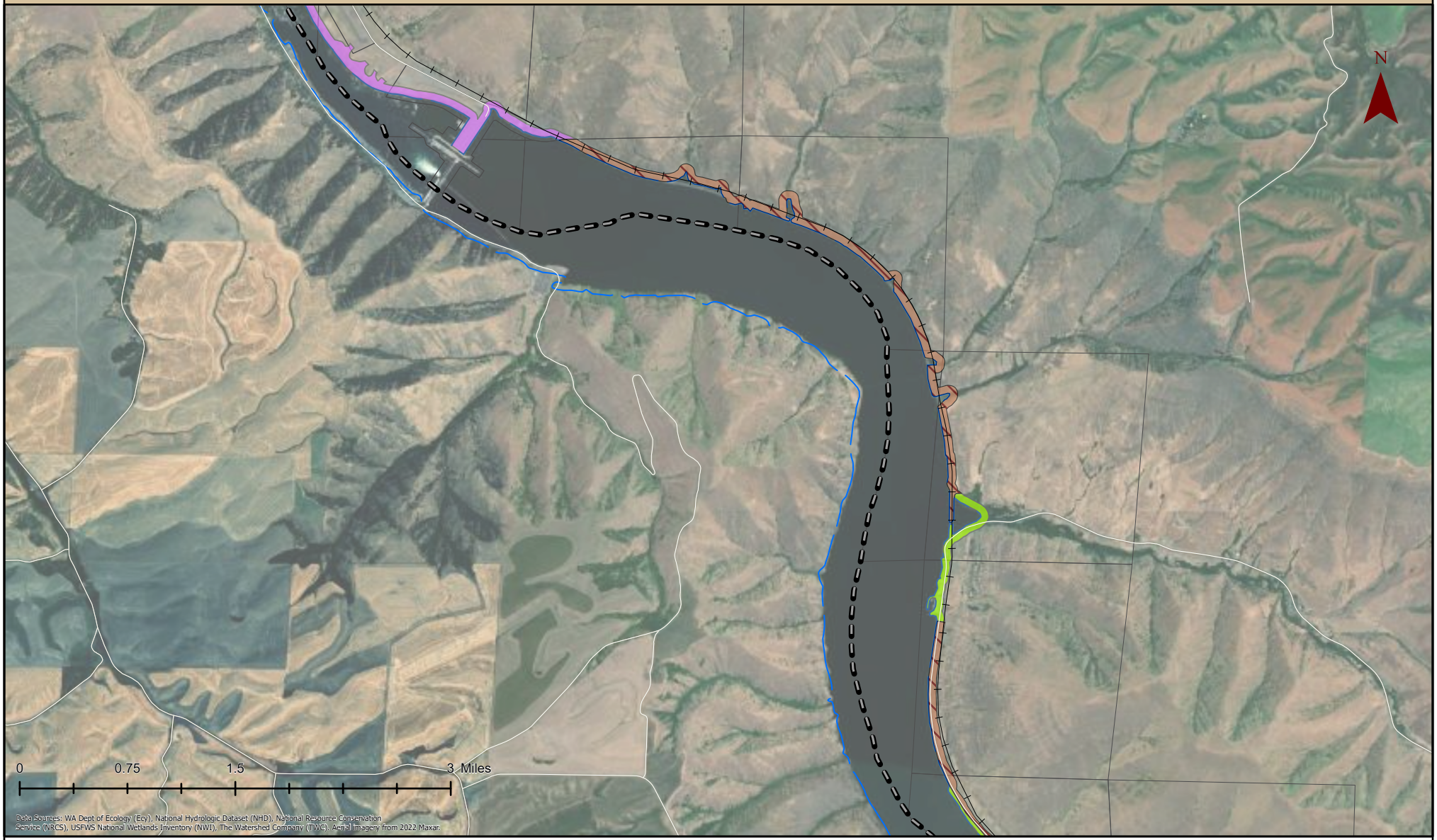

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 6

## Official Shoreline Maps



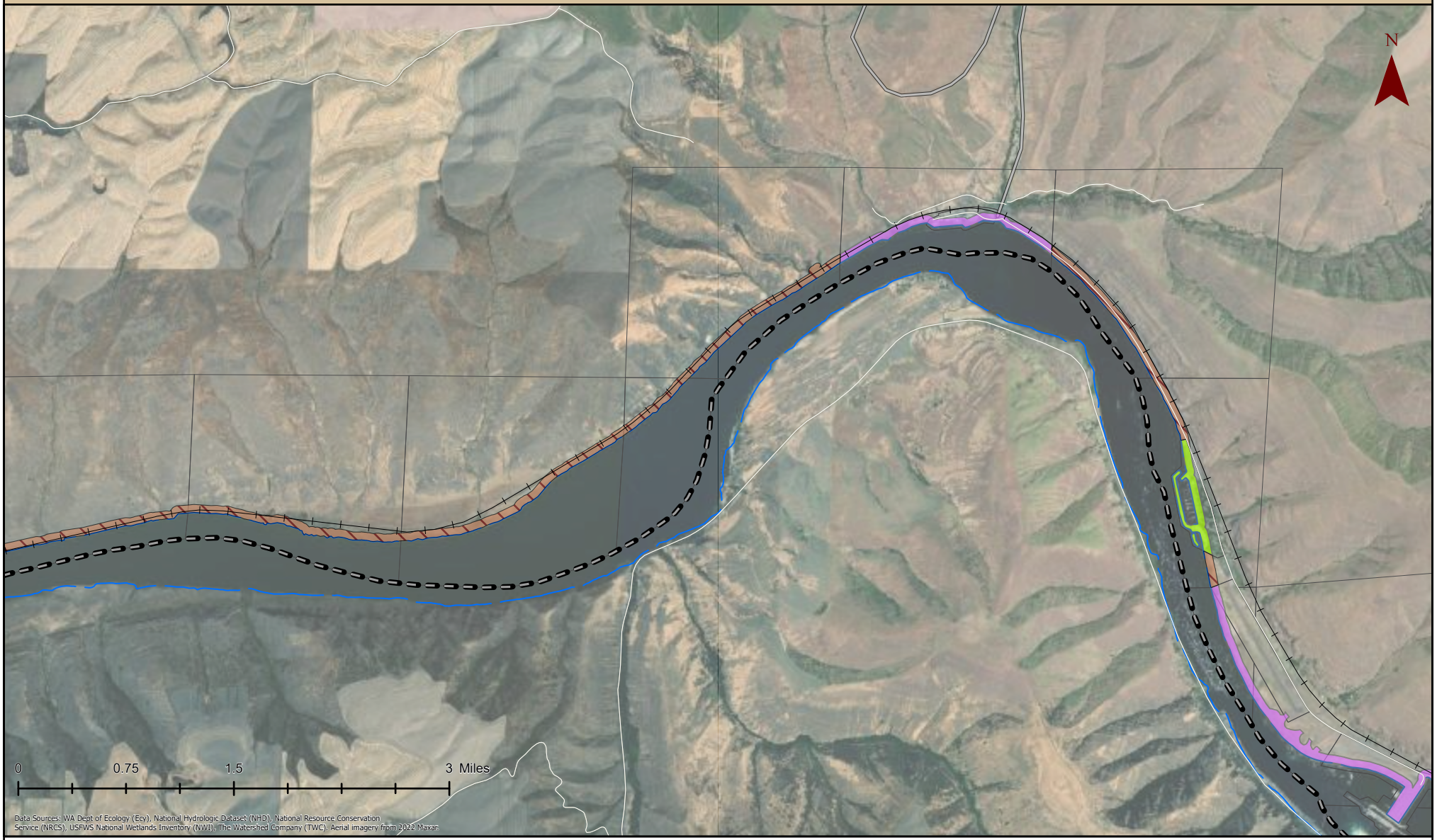

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 7

## Official Shoreline Maps



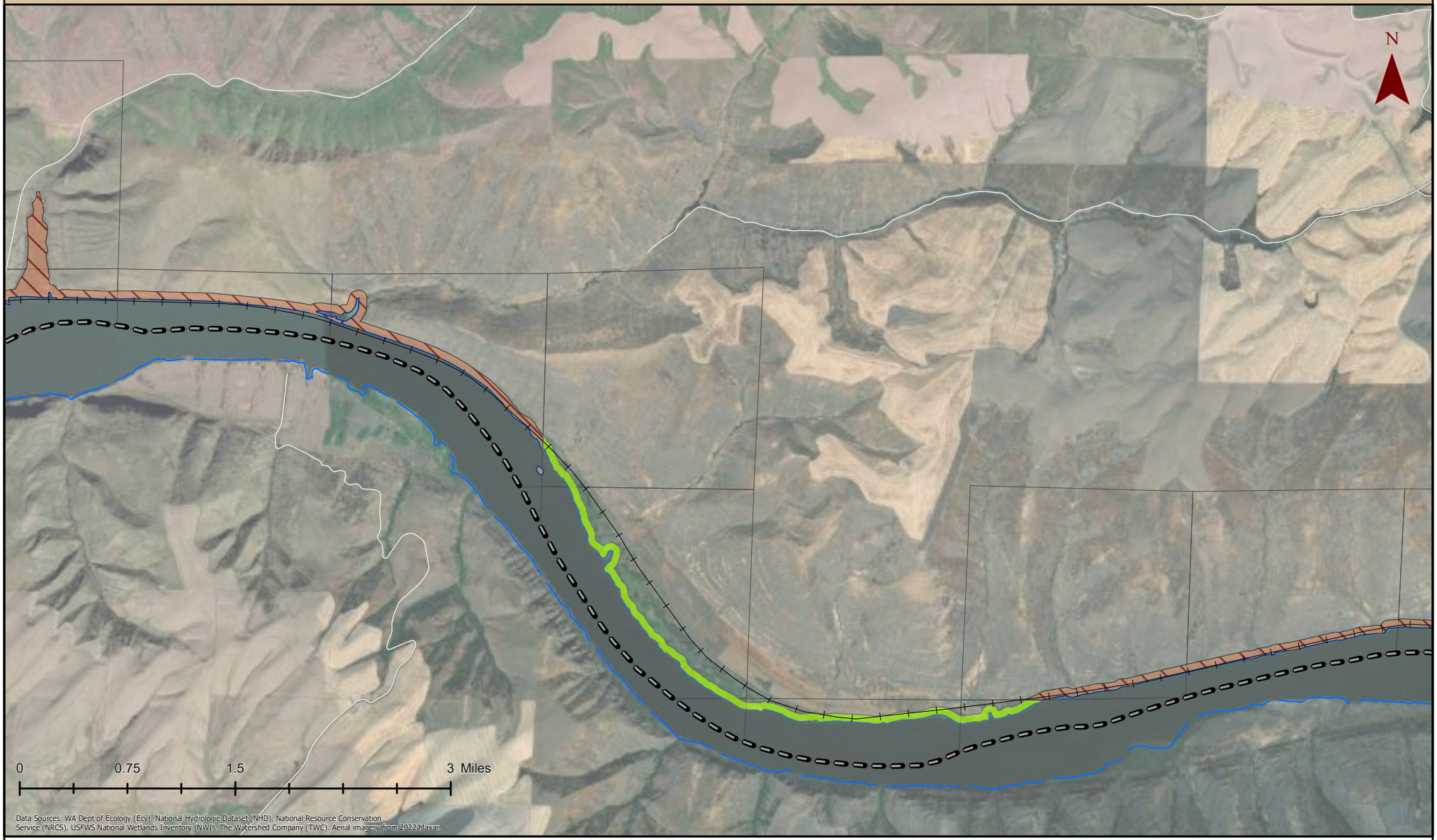

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 8

## Official Shoreline Maps



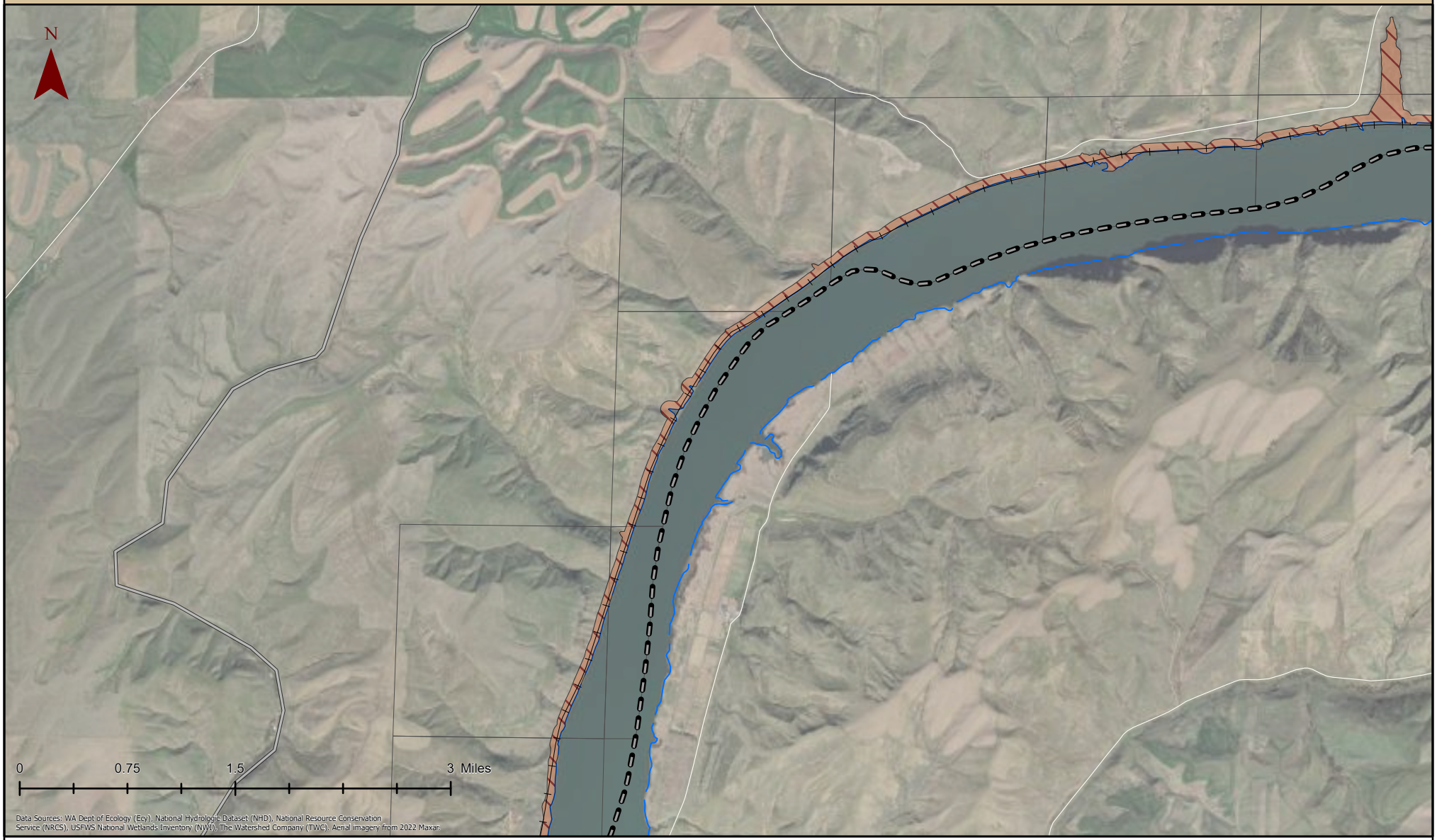

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 9

## Official Shoreline Maps



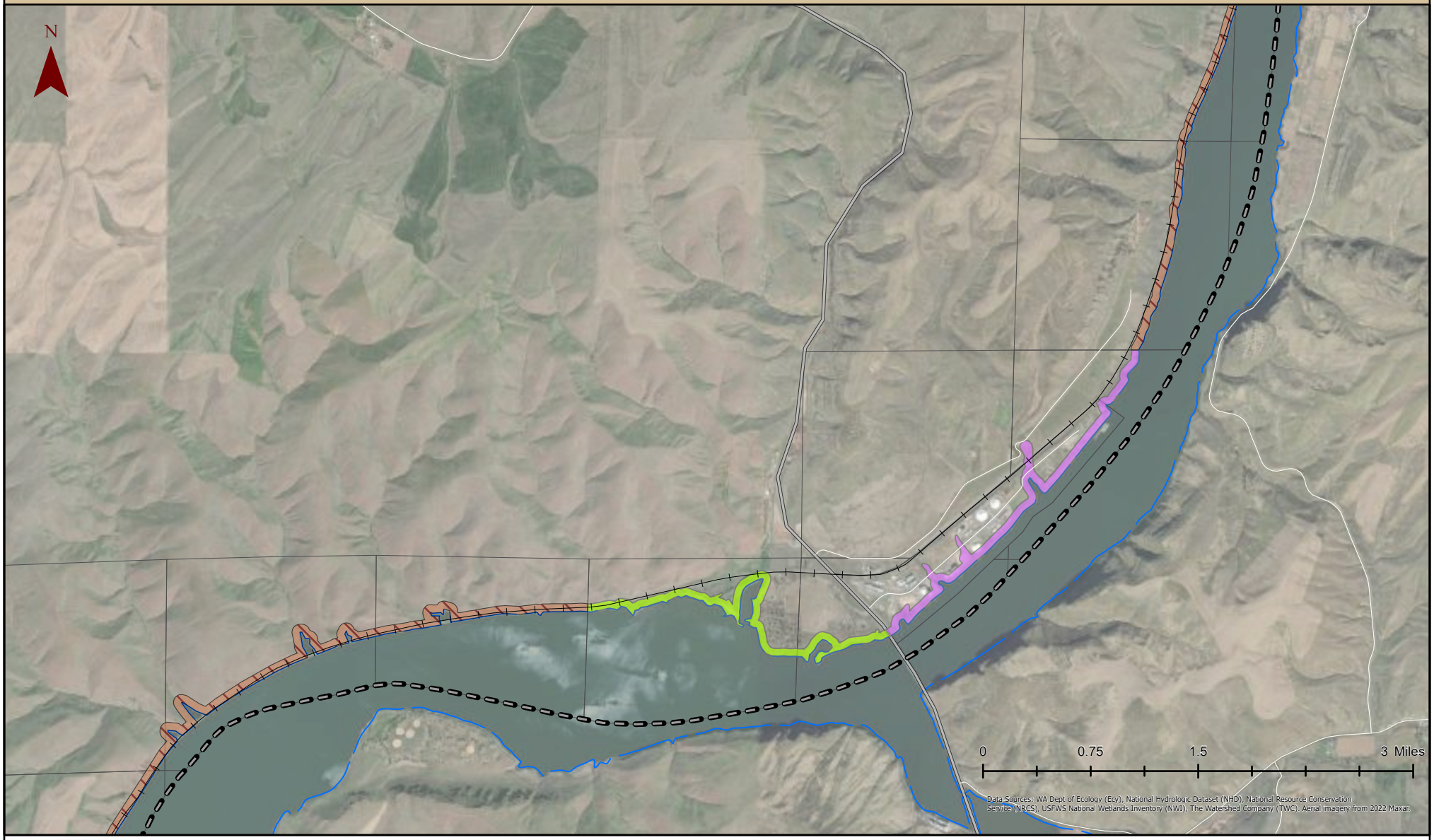

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 10

## Official Shoreline Maps



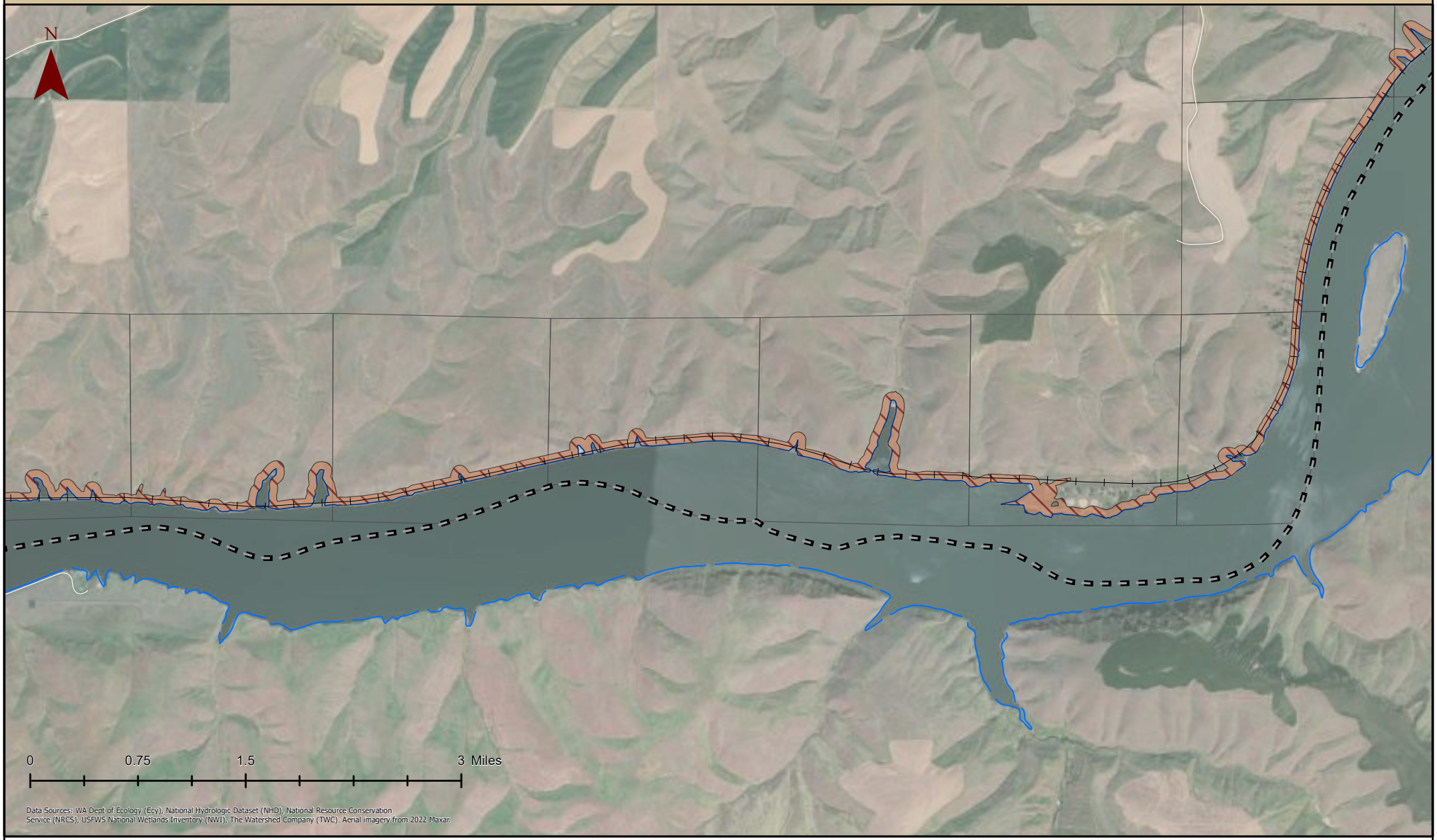

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 11

## Official Shoreline Maps



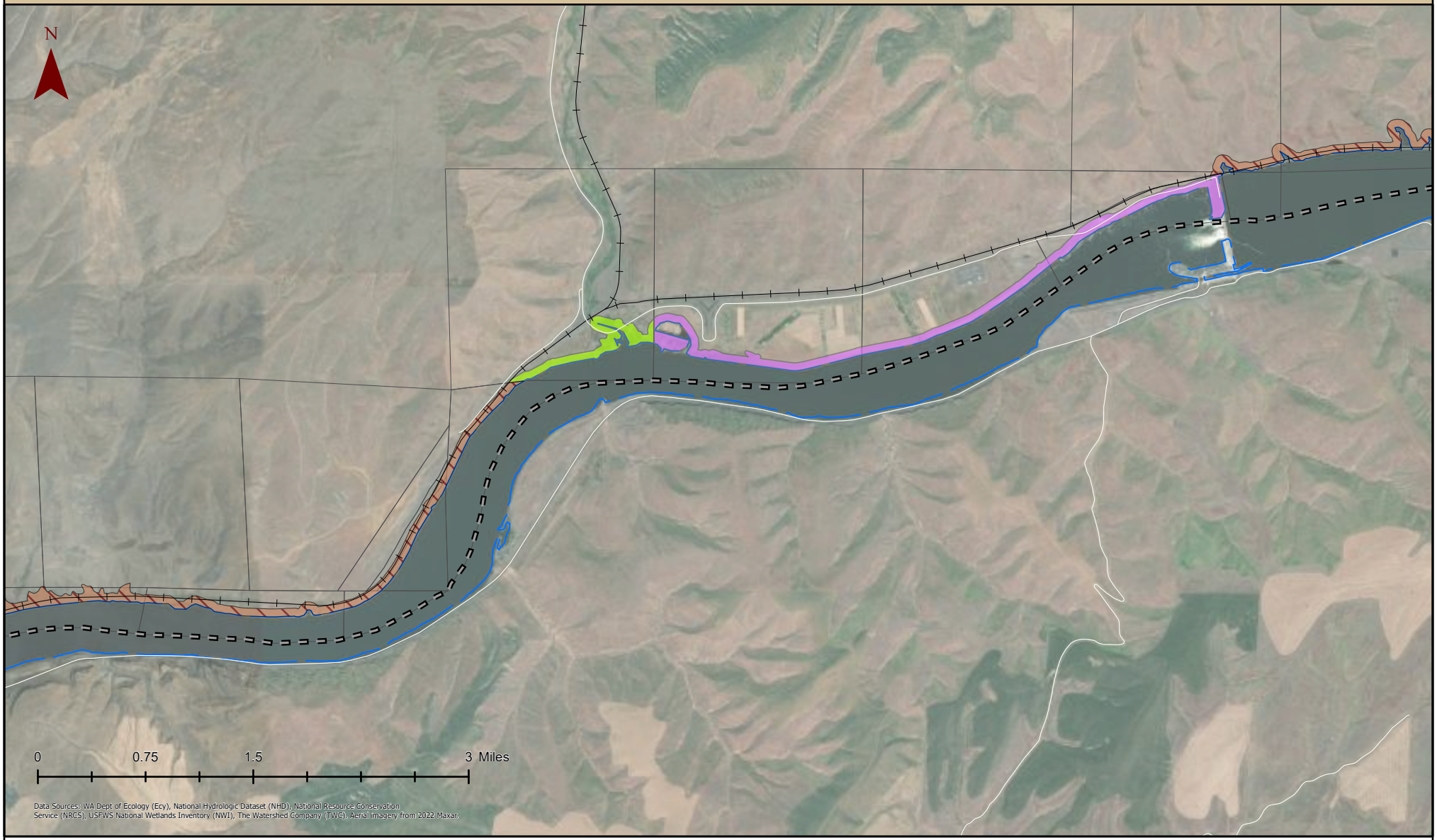

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - 12

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Snake River - Palouse River - 13

## Official Shoreline Maps



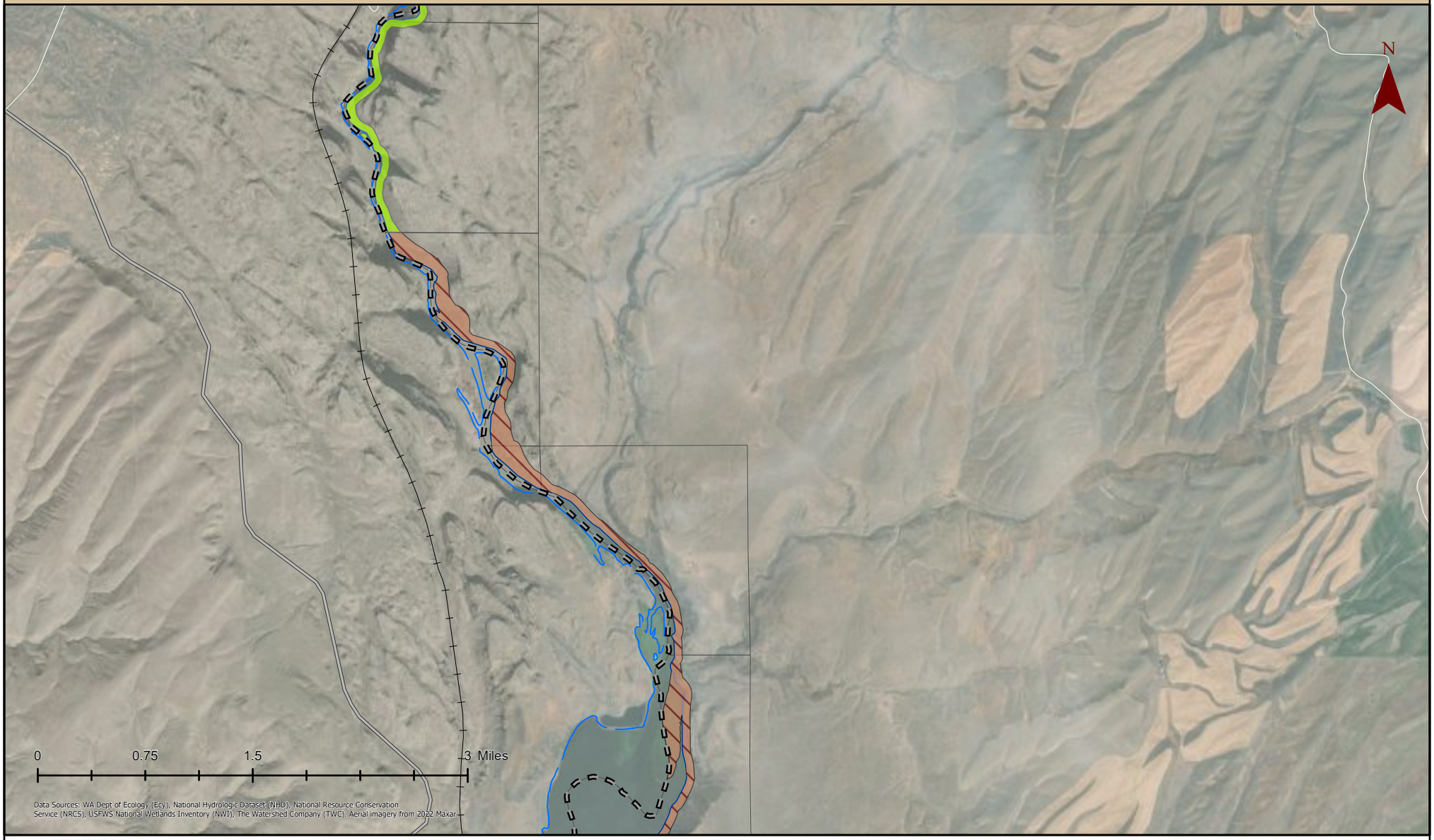

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 14

## Official Shoreline Maps



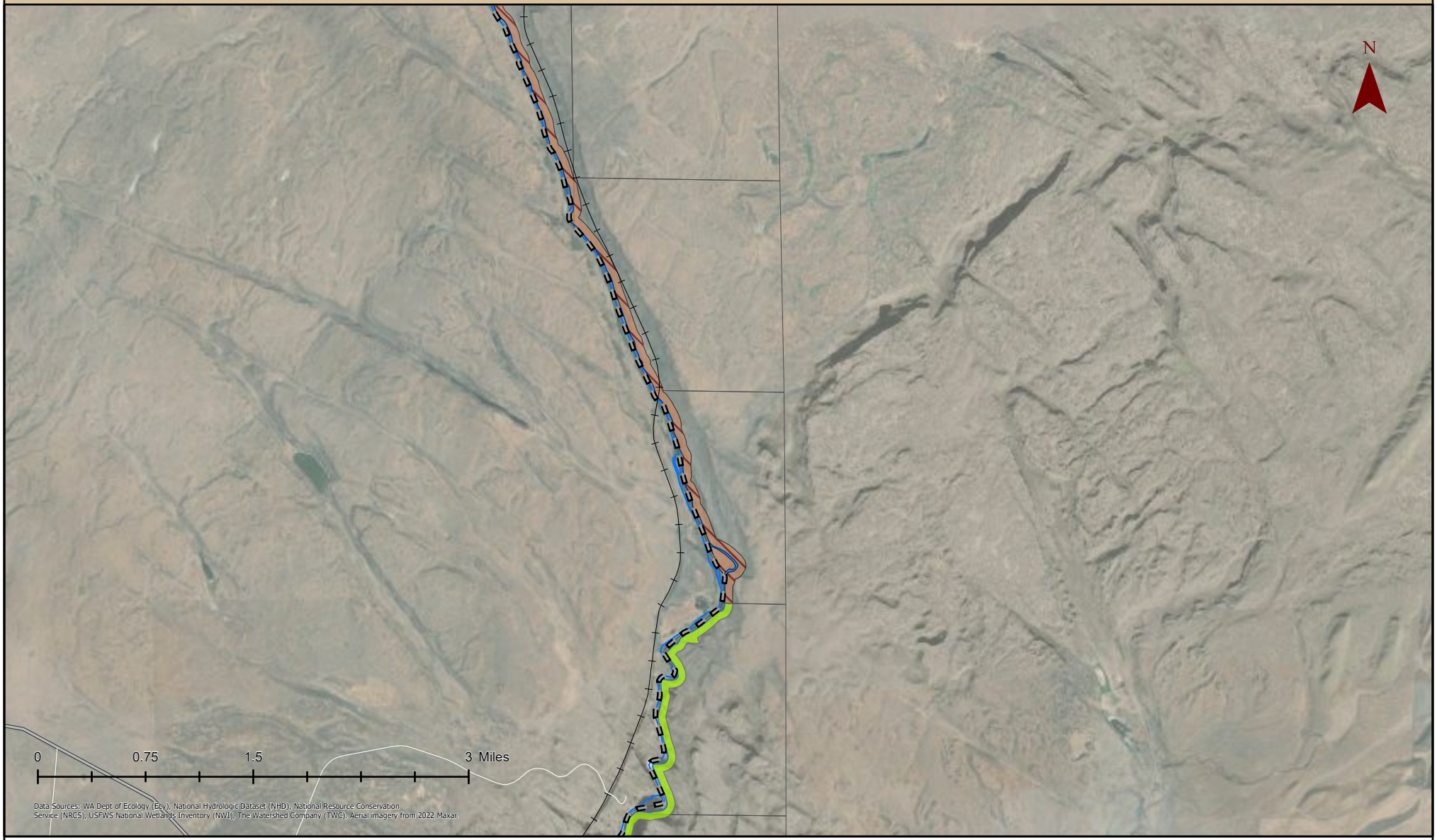

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 15

## Official Shoreline Maps



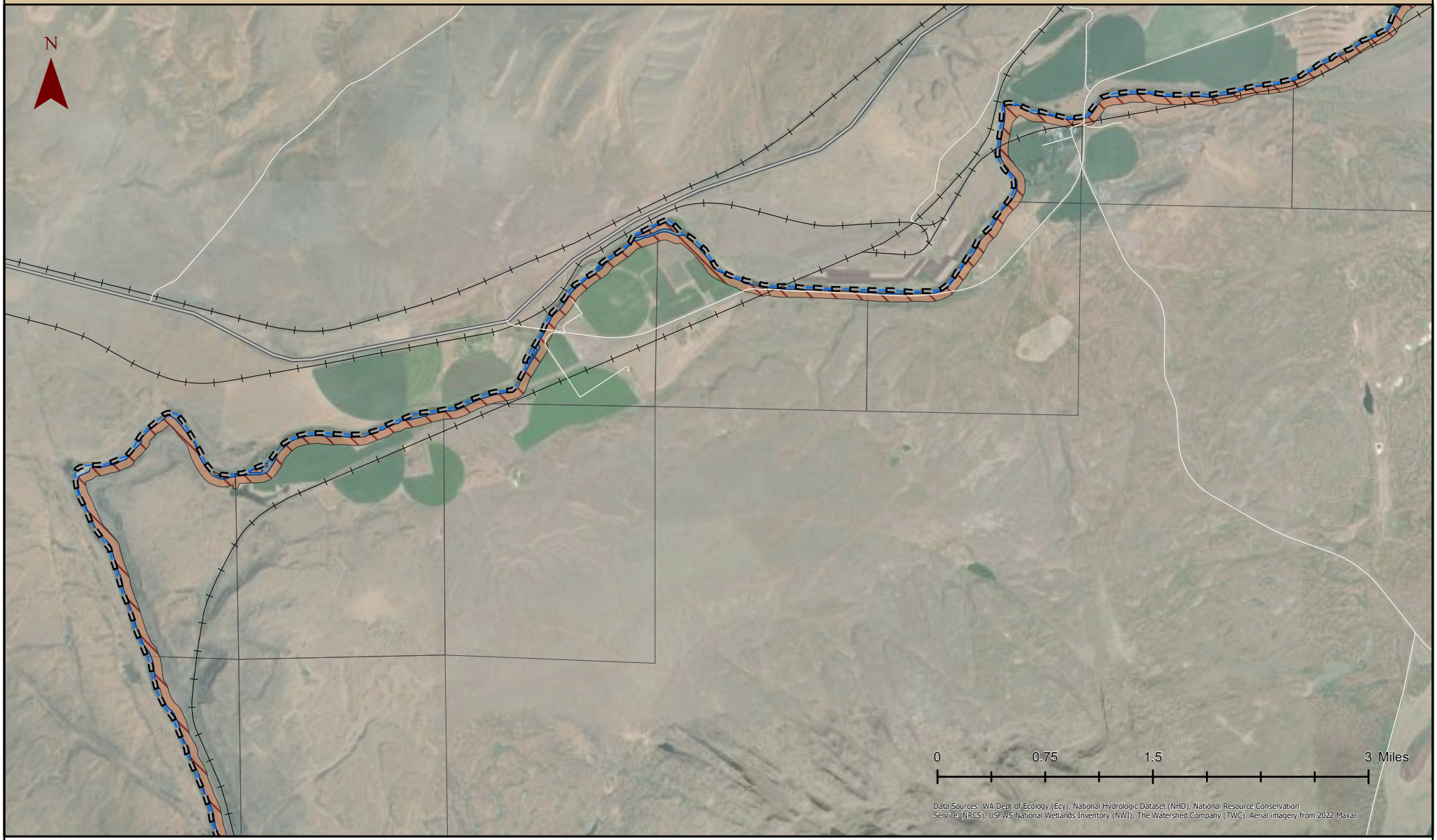

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 16

## Official Shoreline Maps



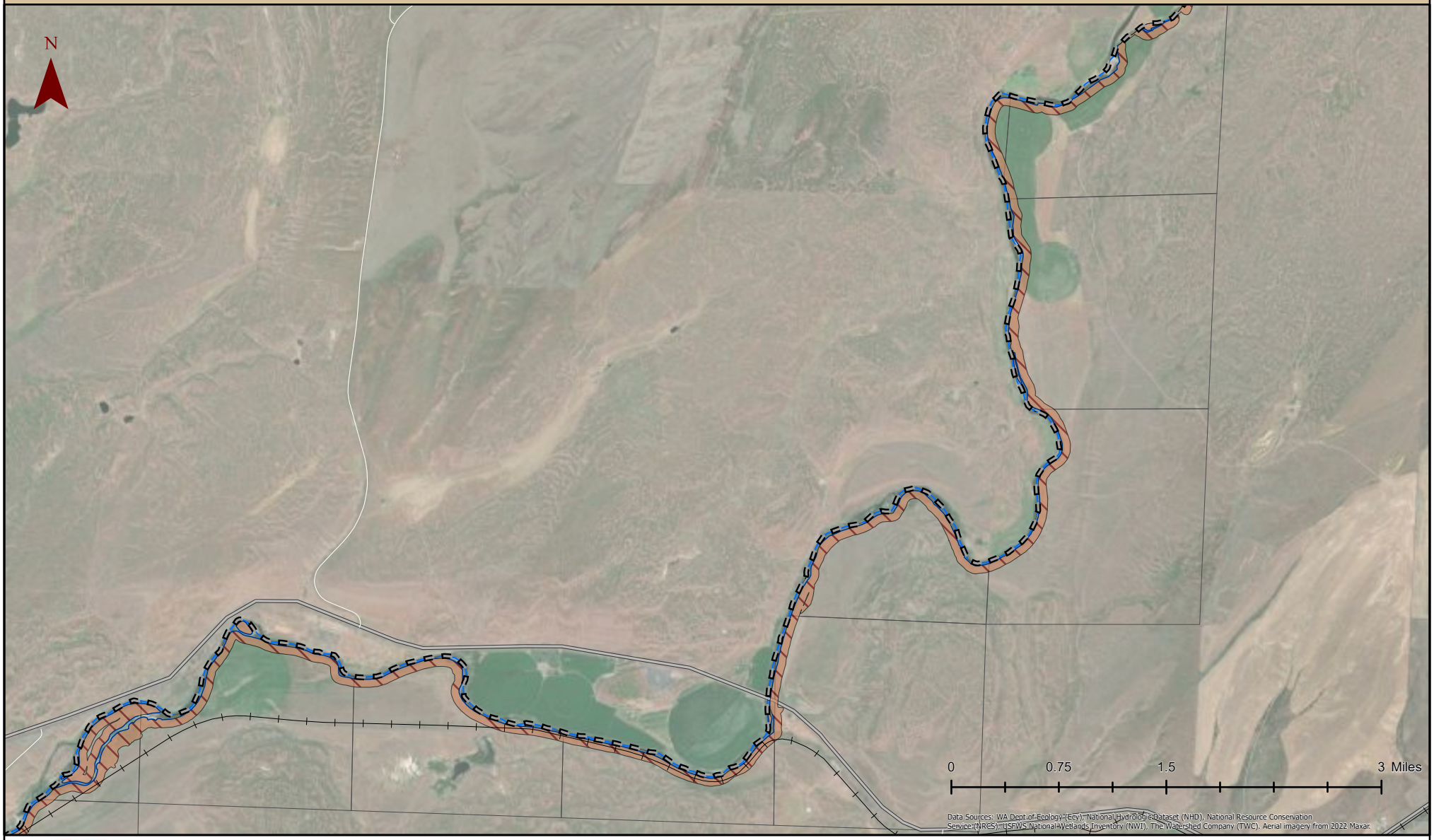

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 17

## Official Shoreline Maps



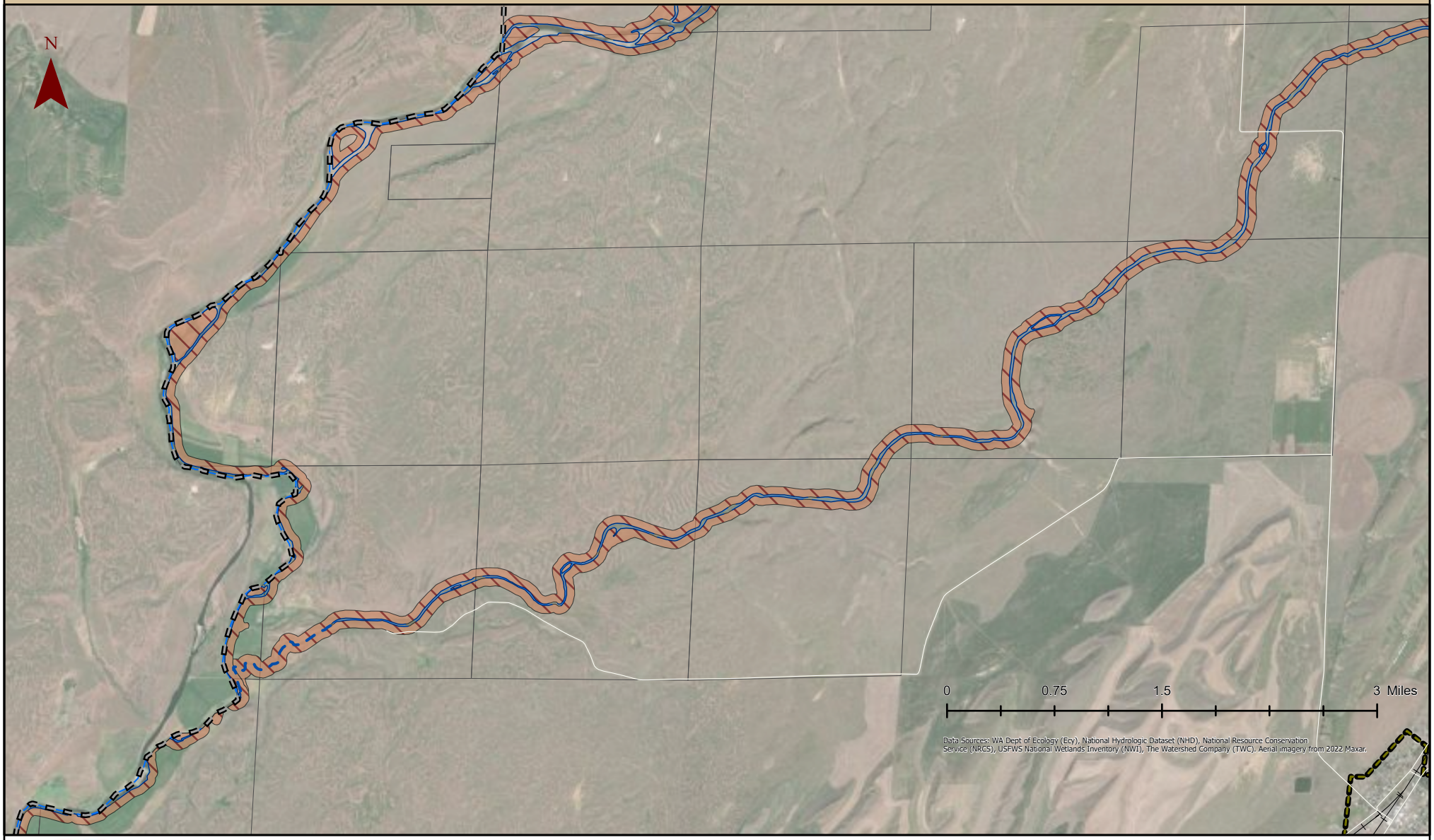

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - Union Flat Creek - 18

## Official Shoreline Maps



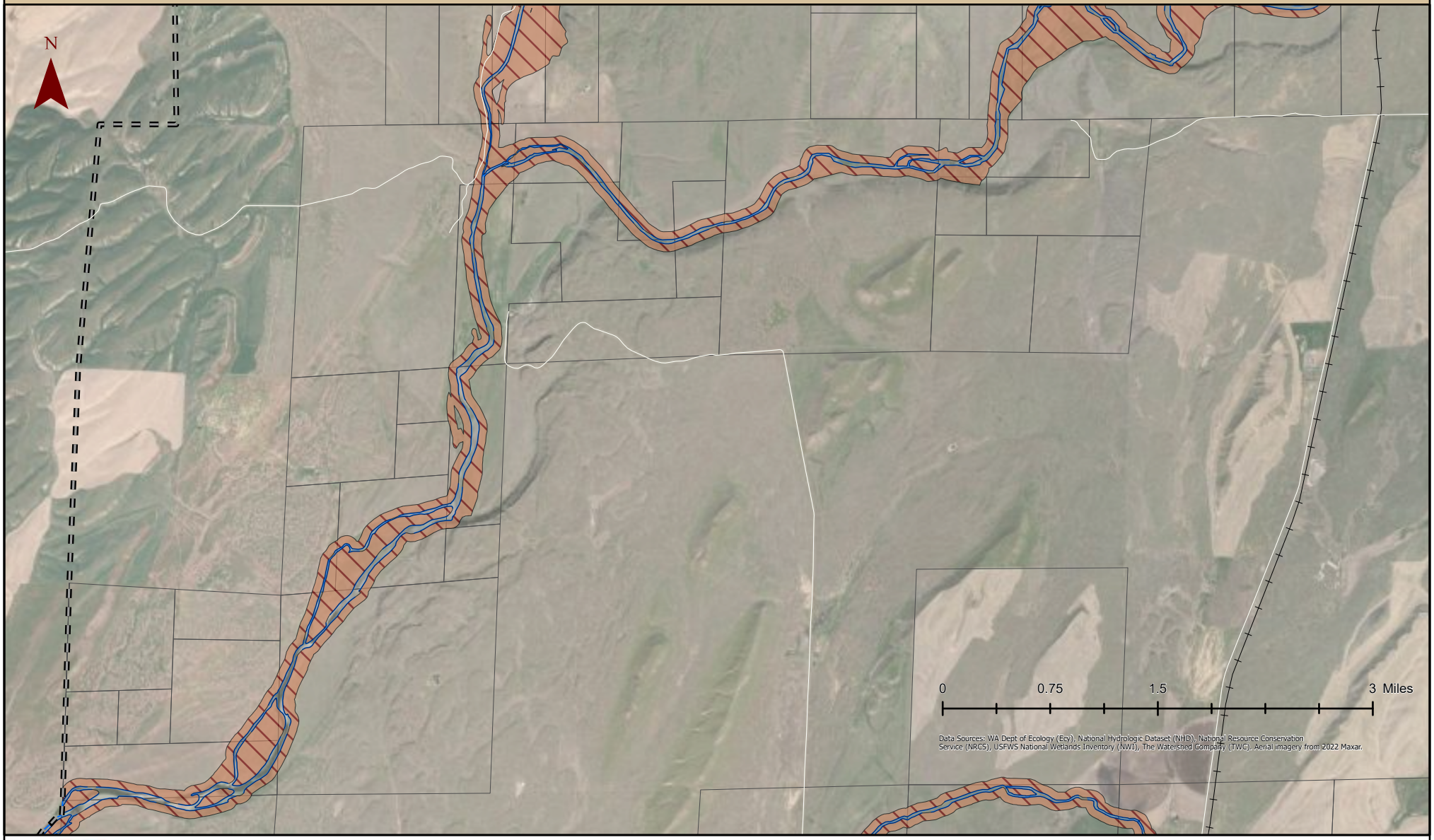

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - Rock Creek - 19

## Official Shoreline Maps



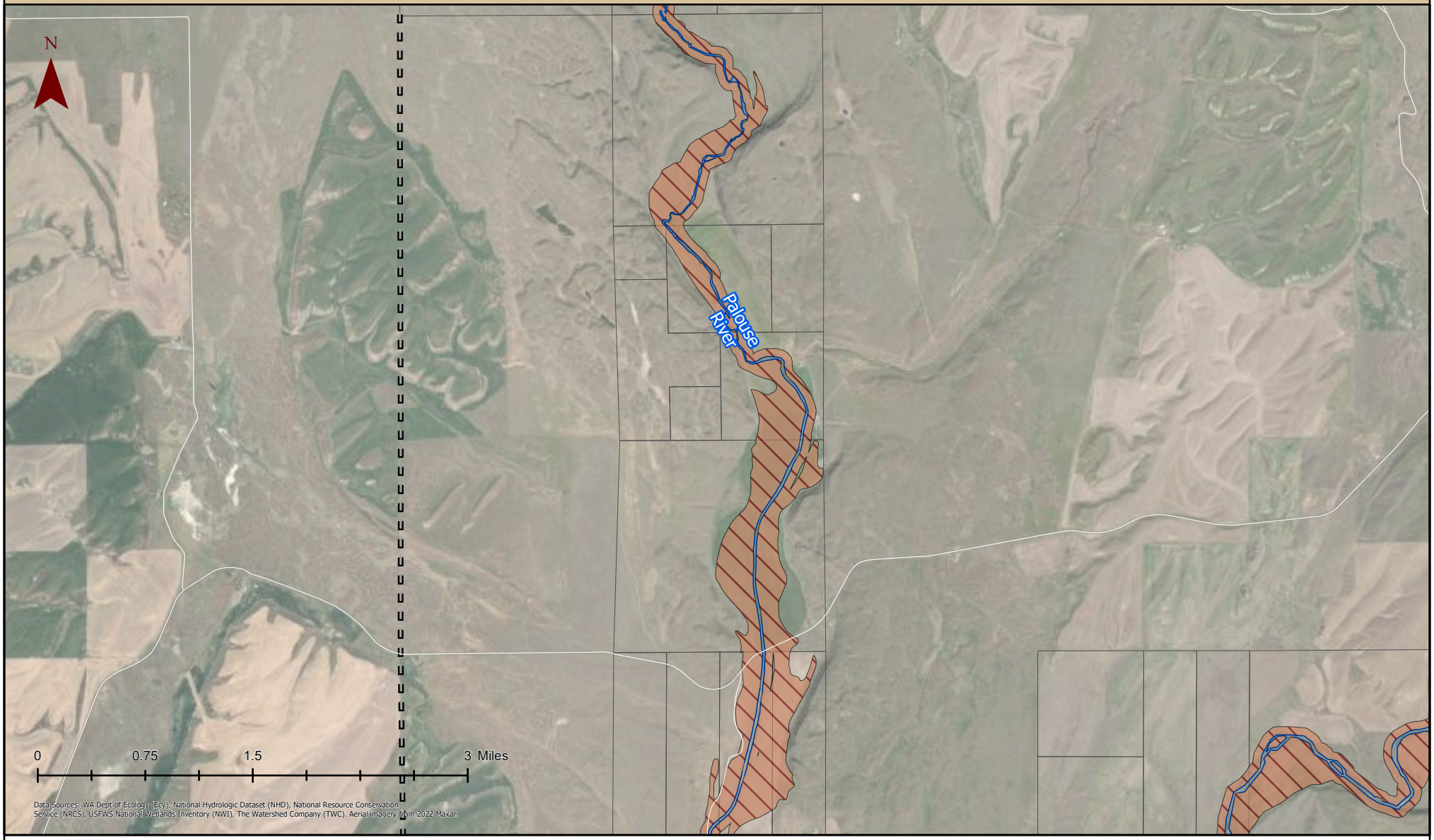

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 20

## Official Shoreline Maps



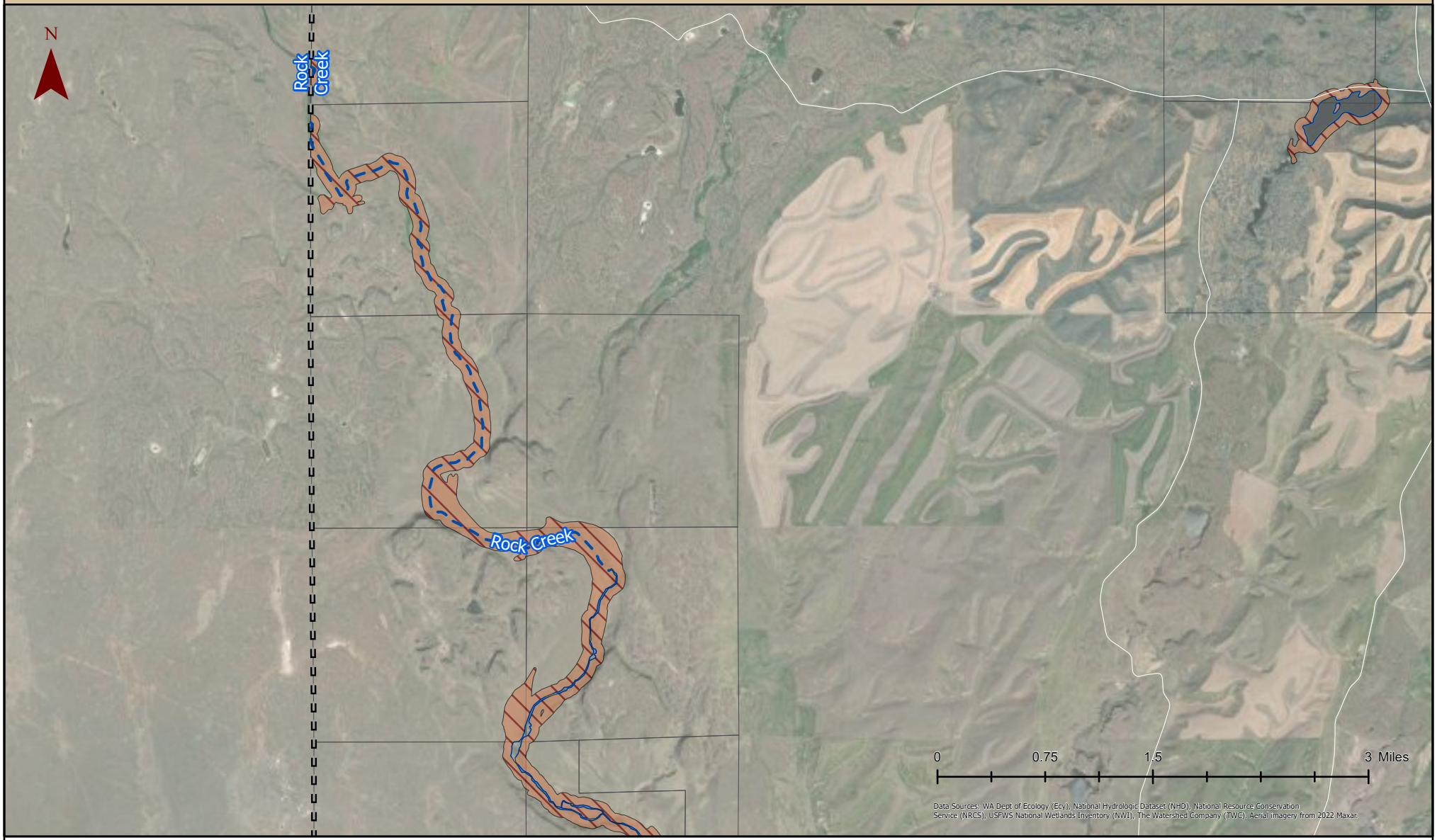

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - 21

## Official Shoreline Maps



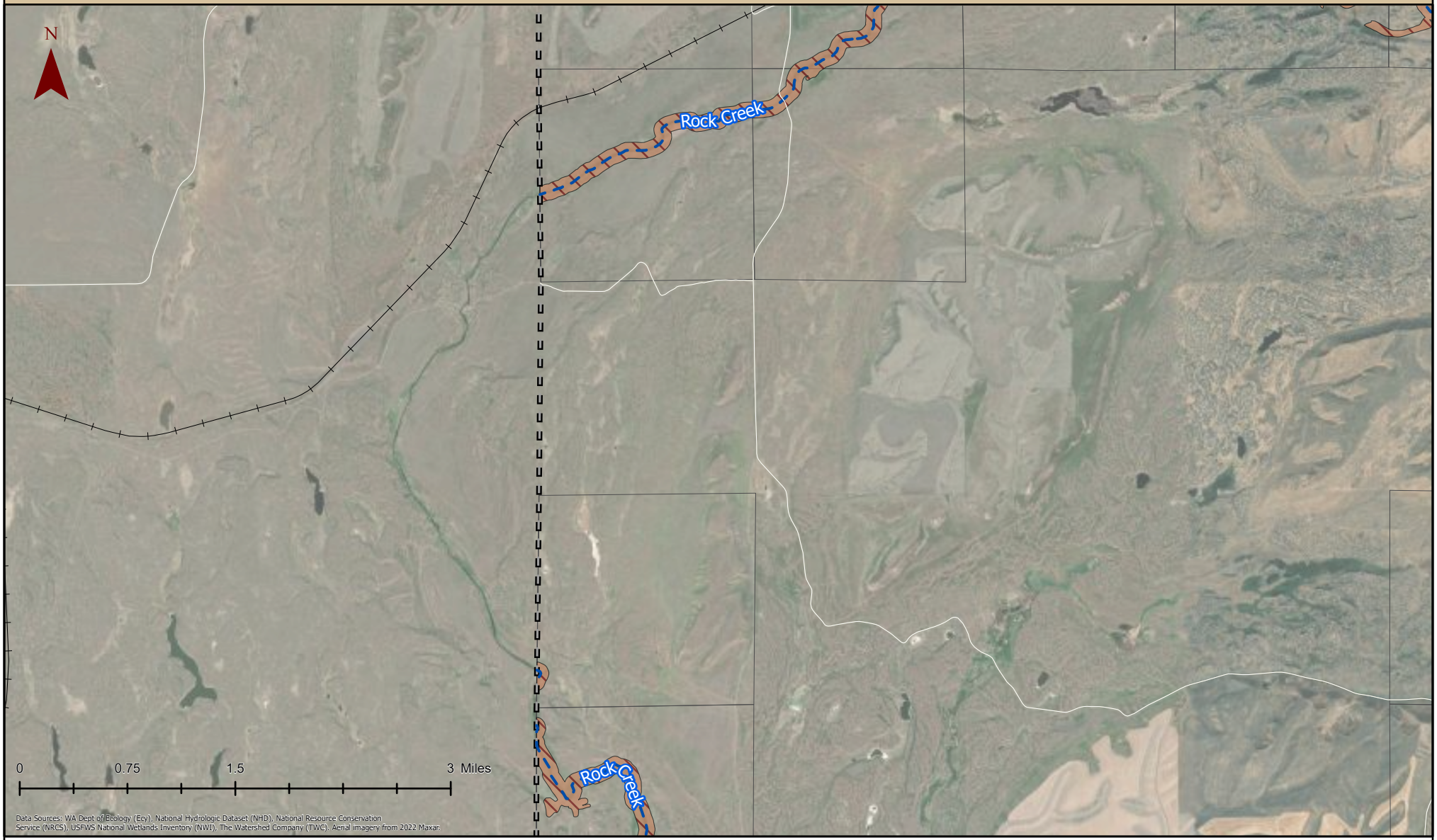

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - 22

## Official Shoreline Maps



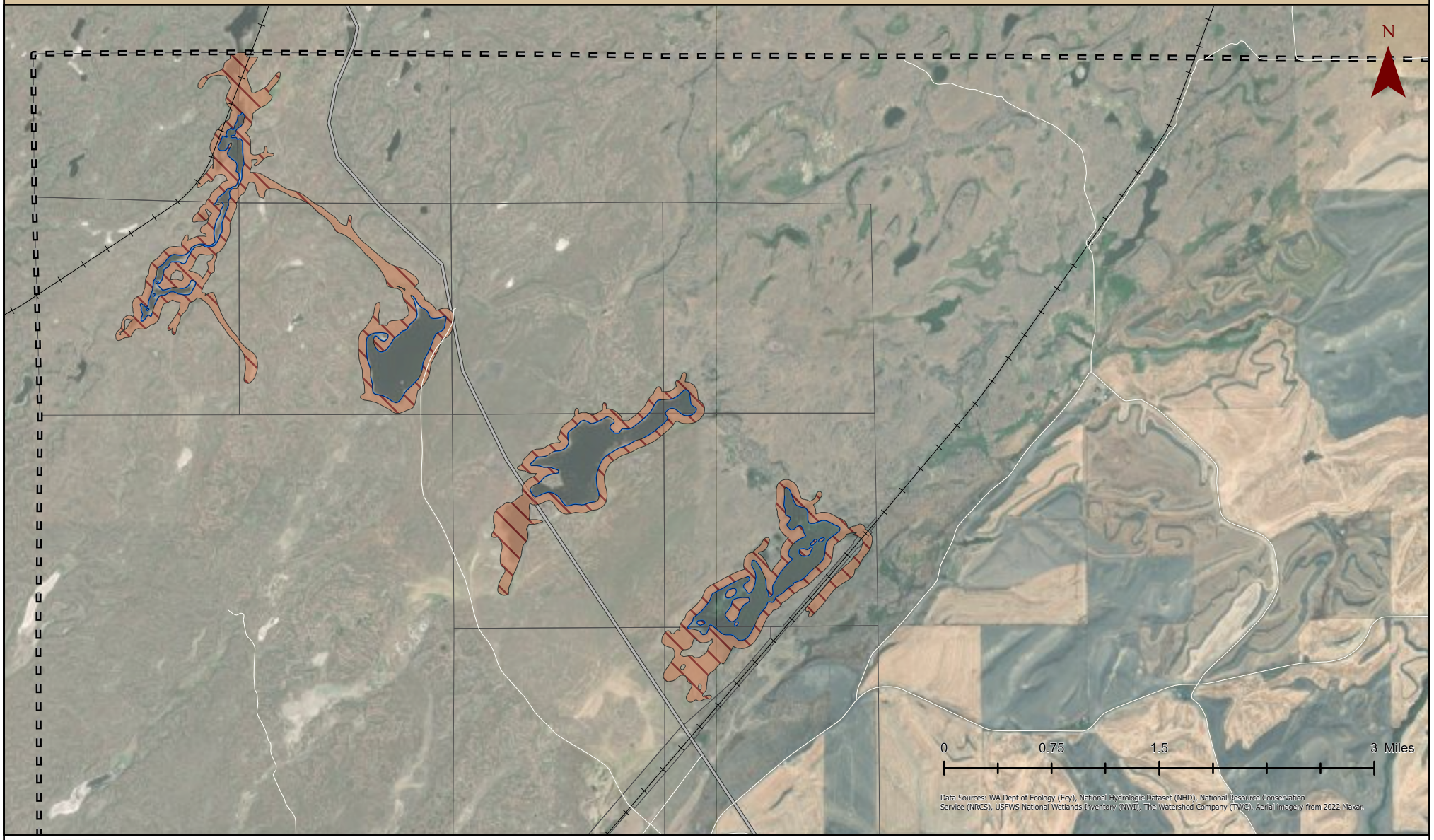

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Northwest Corner - 23

## Official Shoreline Maps



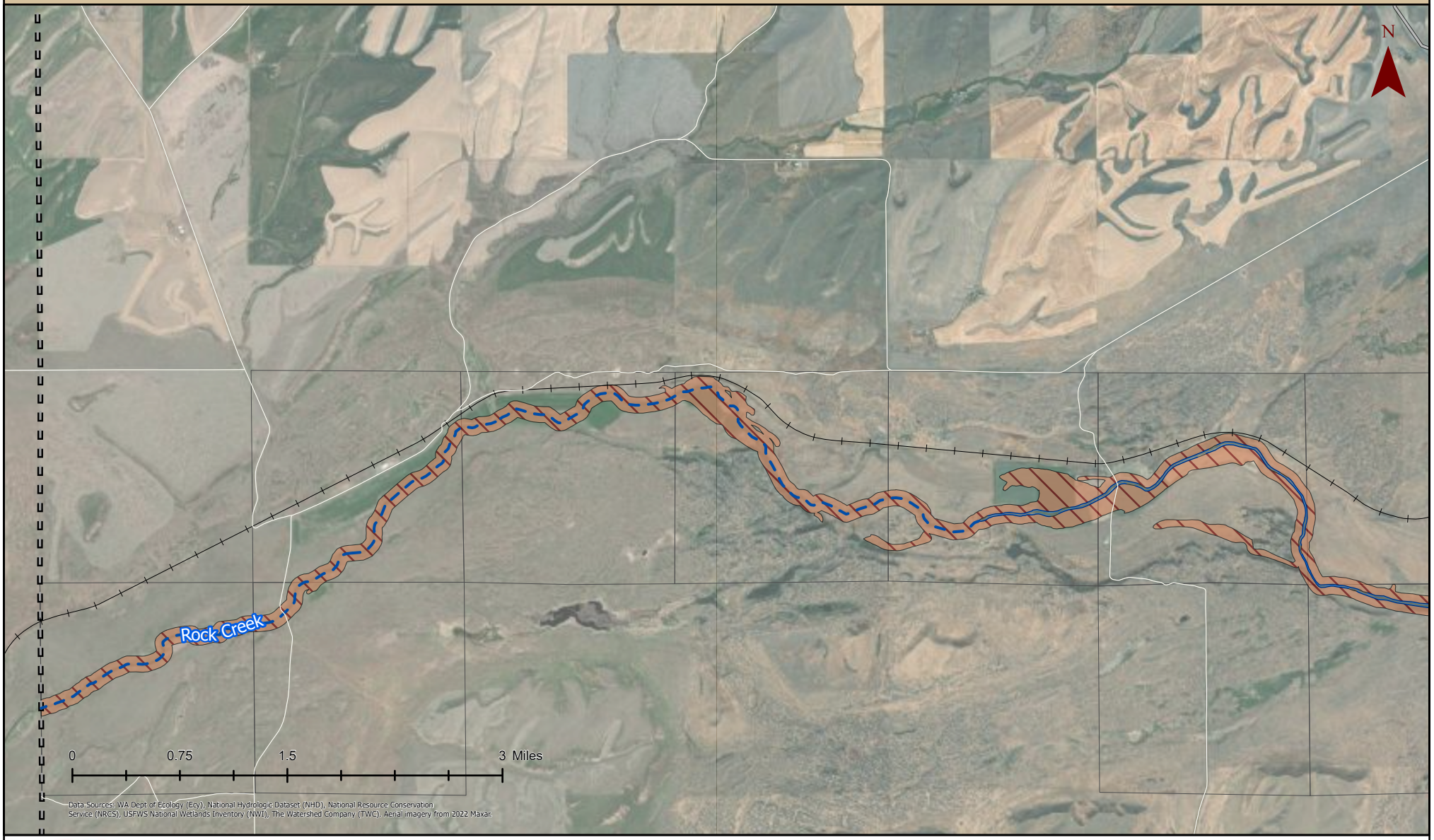

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - 24

## Official Shoreline Maps



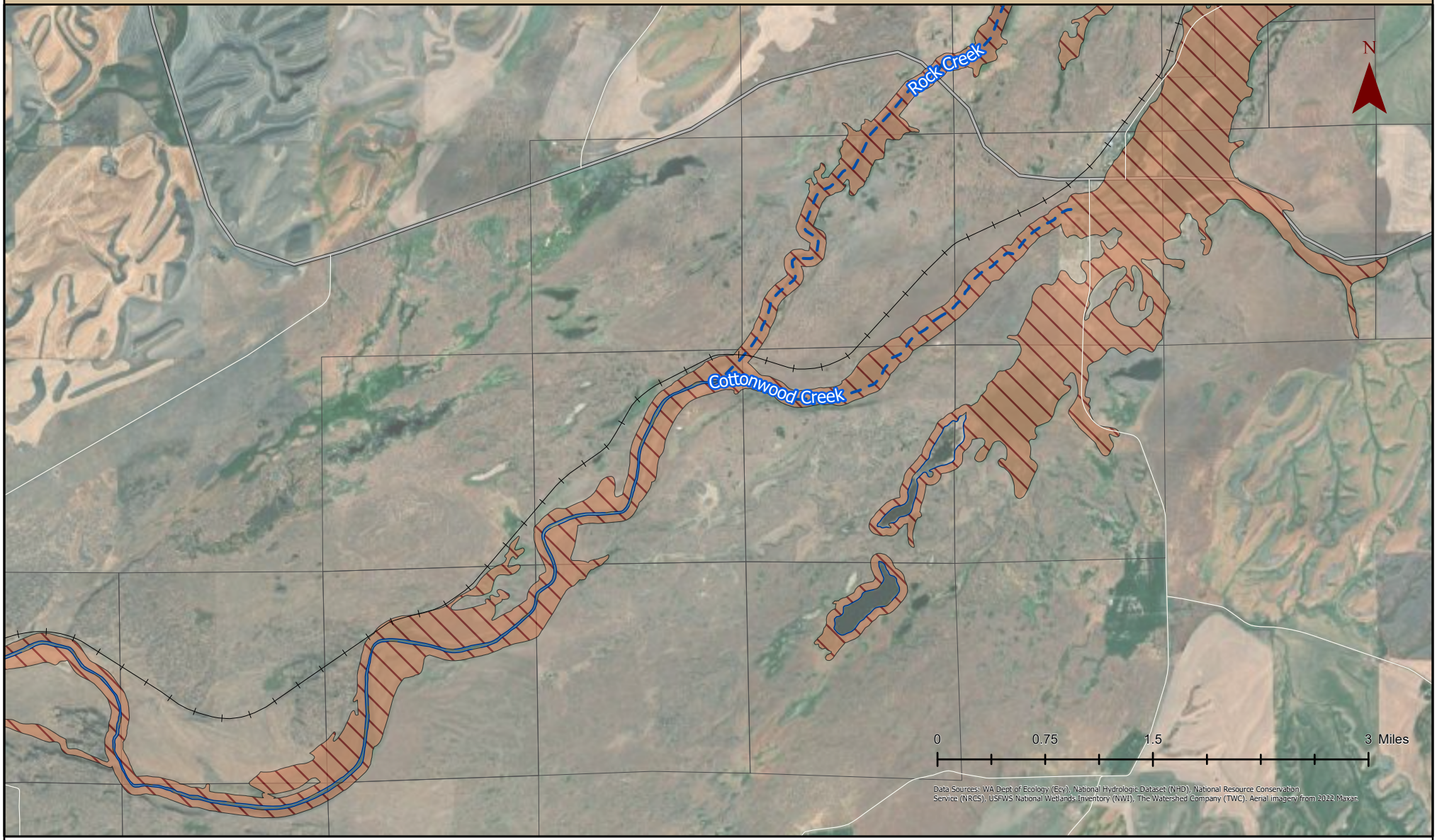

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - Cottonwood Creek - 25

## Official Shoreline Maps



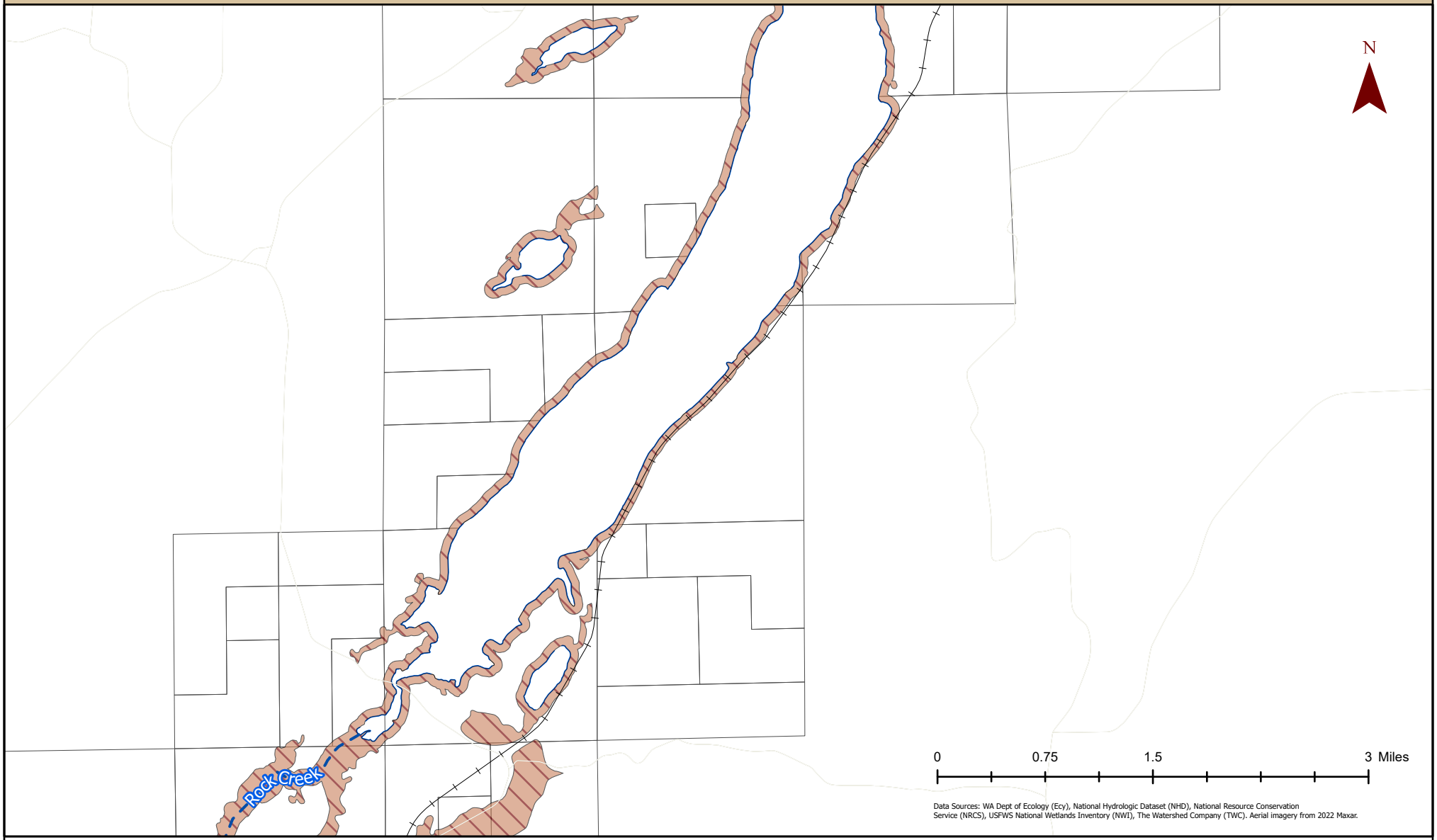

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - Rock Lake - 26

## Official Shoreline Maps



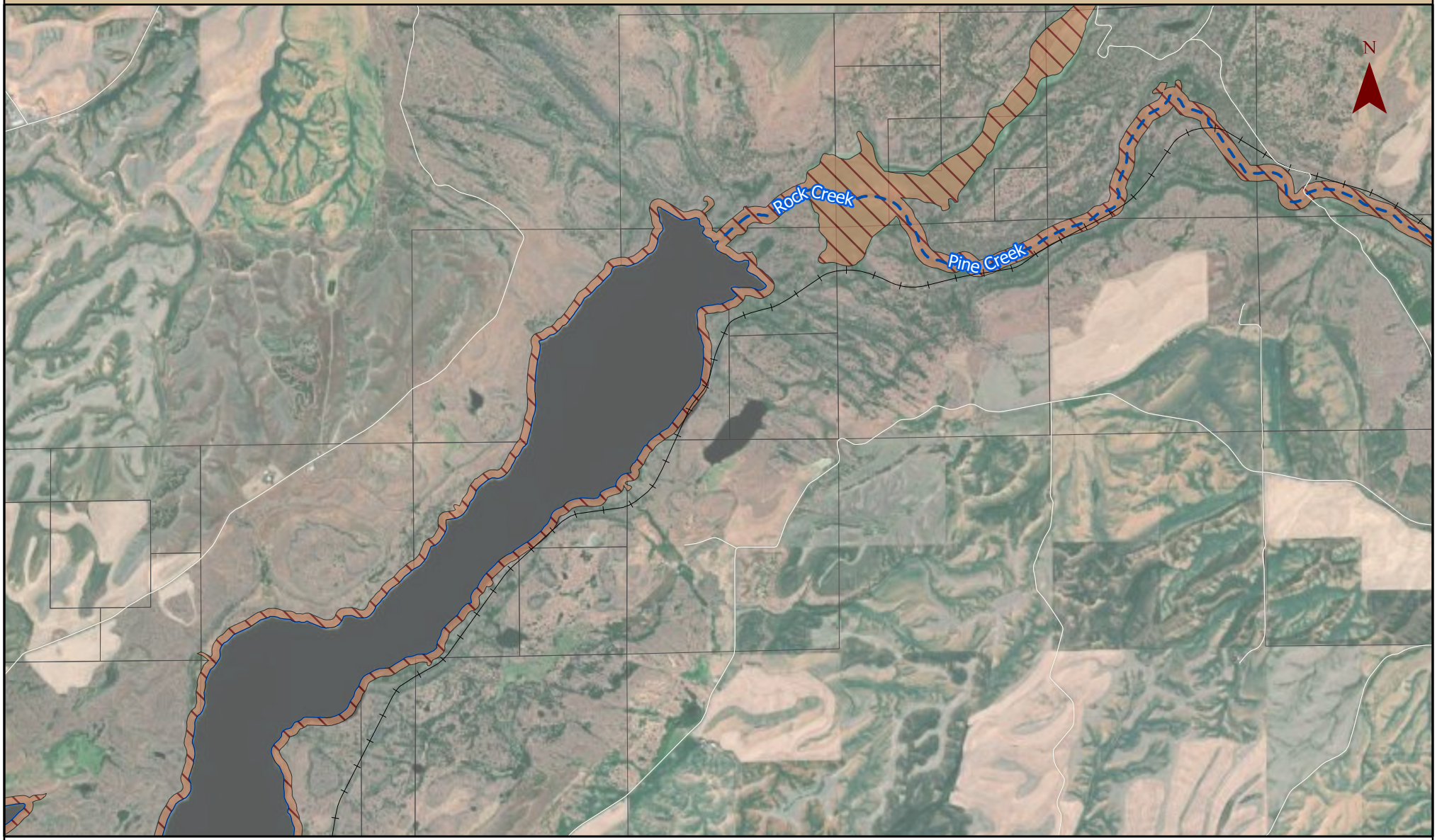

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - Rock Lake - Pine Creek- 27

## Official Shoreline Maps



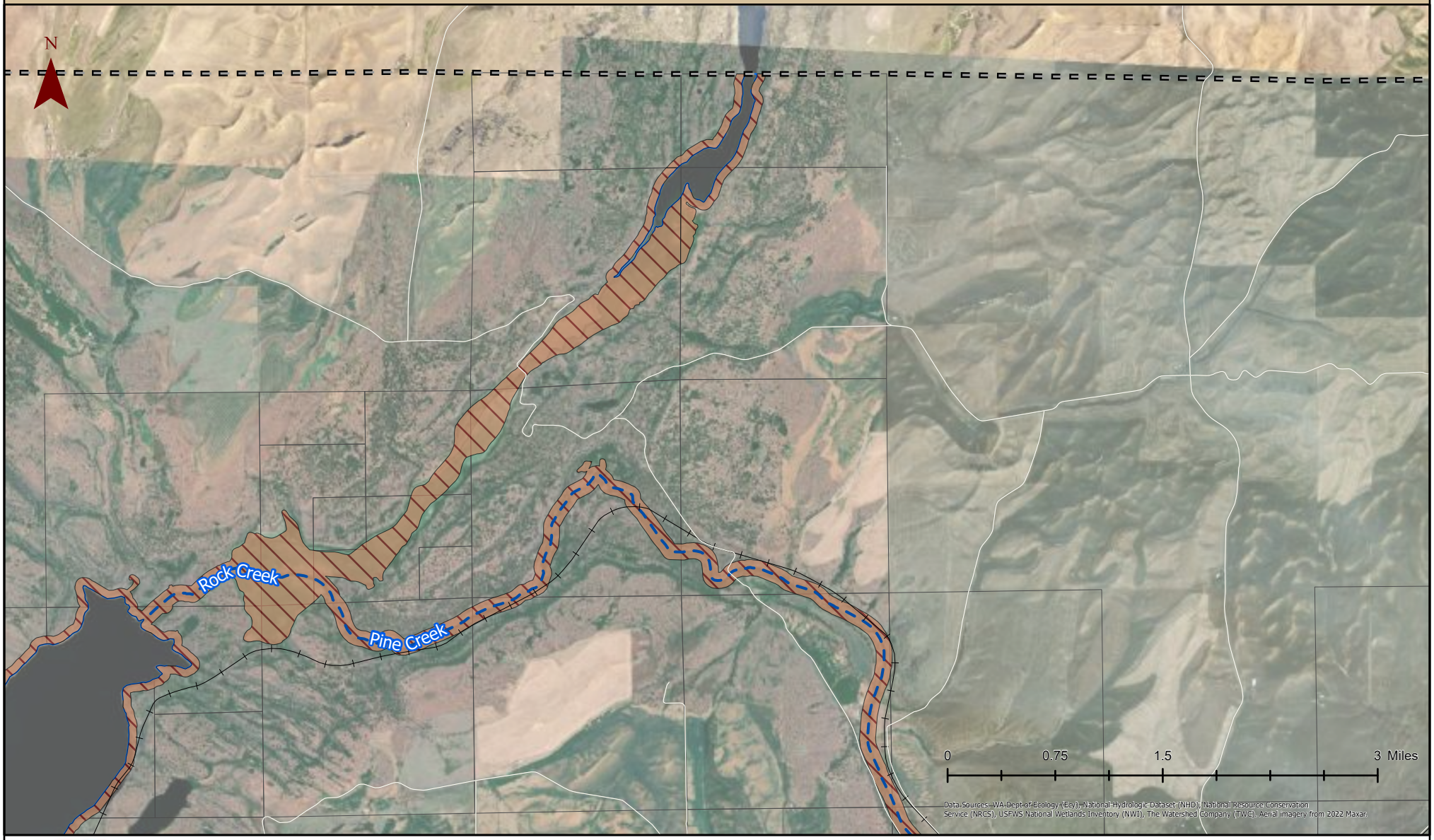

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Rock Creek - Rock Lake - Pine Creek- 28

## Official Shoreline Maps



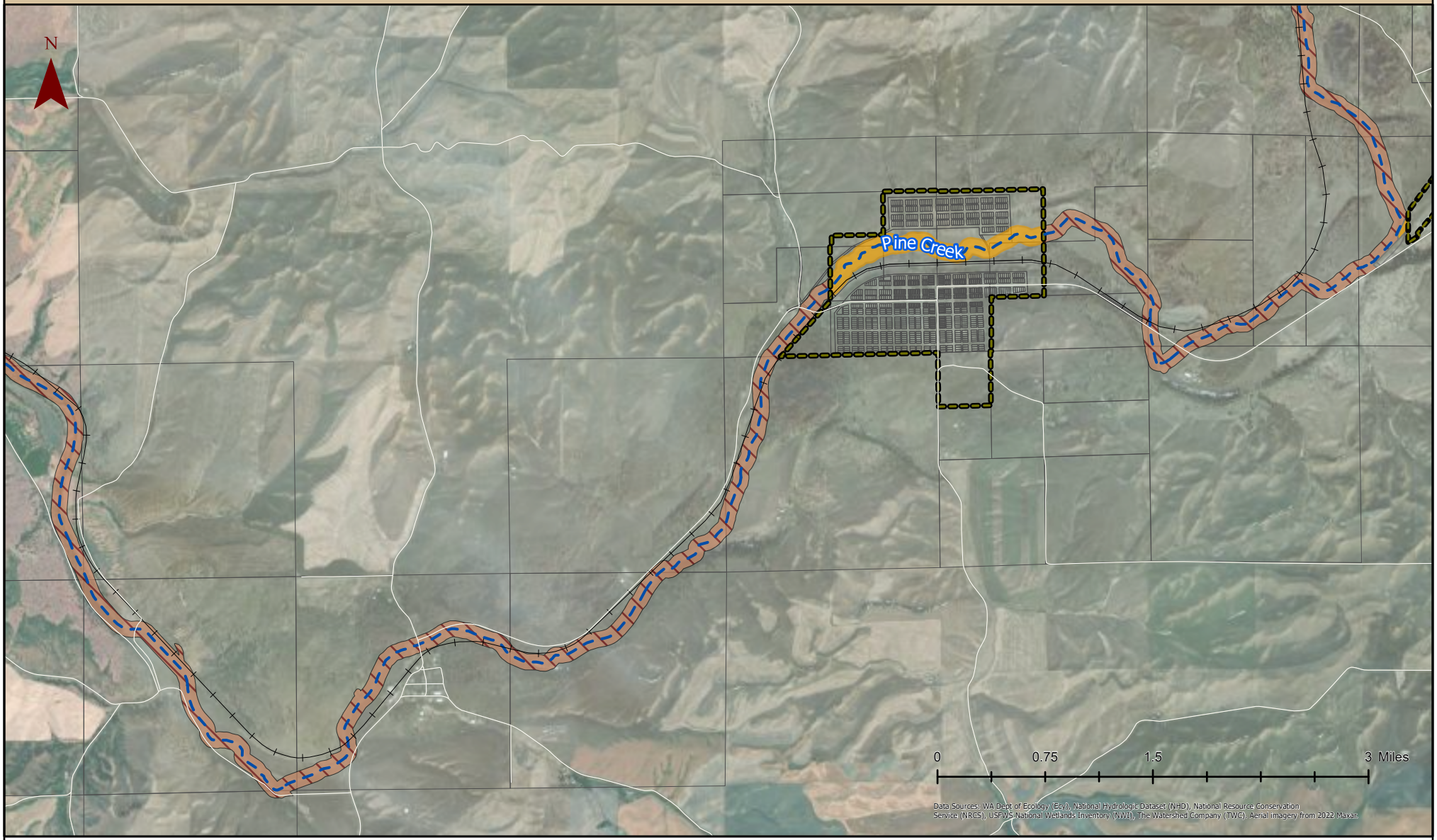

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Pine Creek- Malden - 29

## Official Shoreline Maps



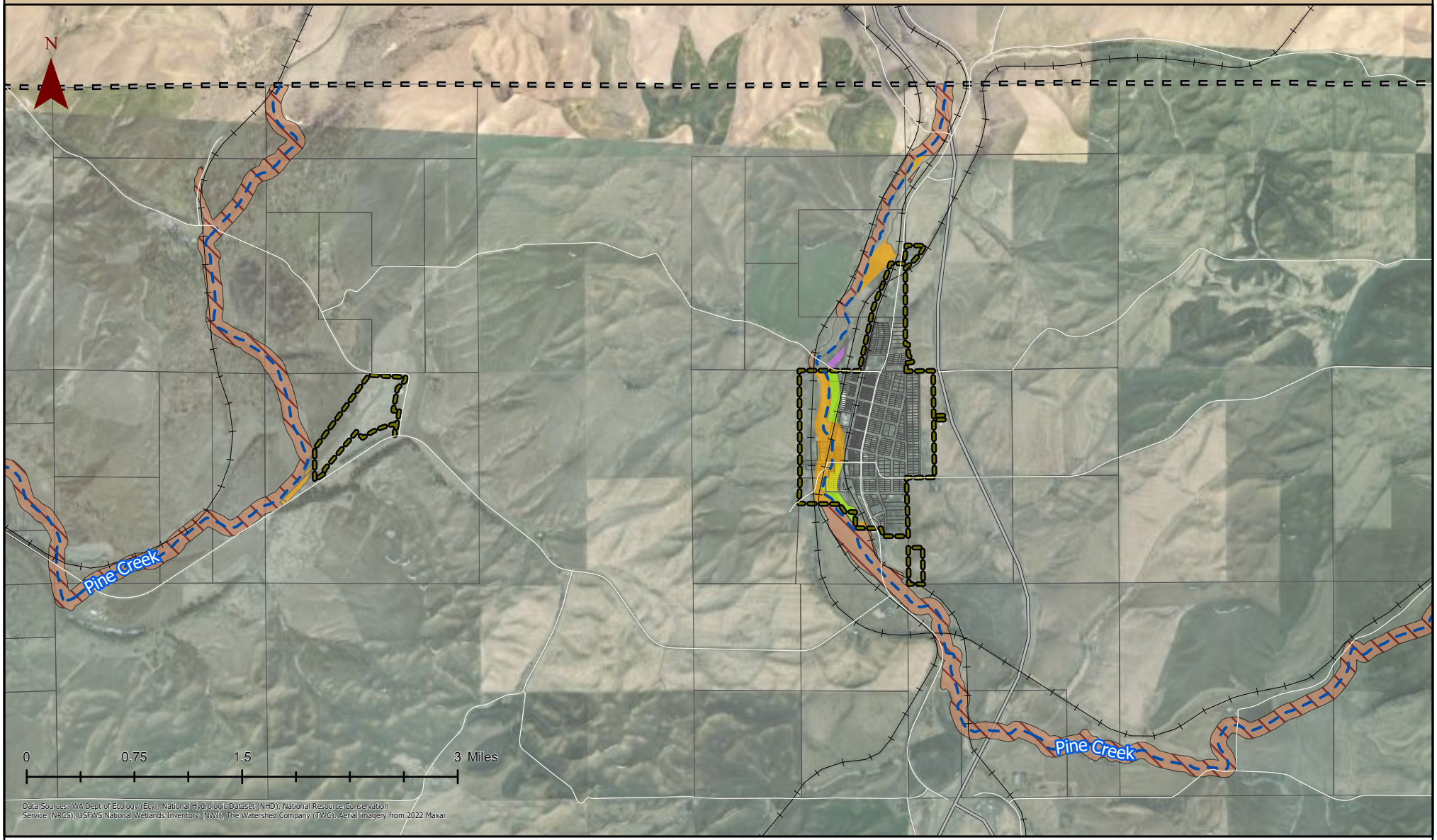

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Pine Creek - Rosalia - 30

## Official Shoreline Maps



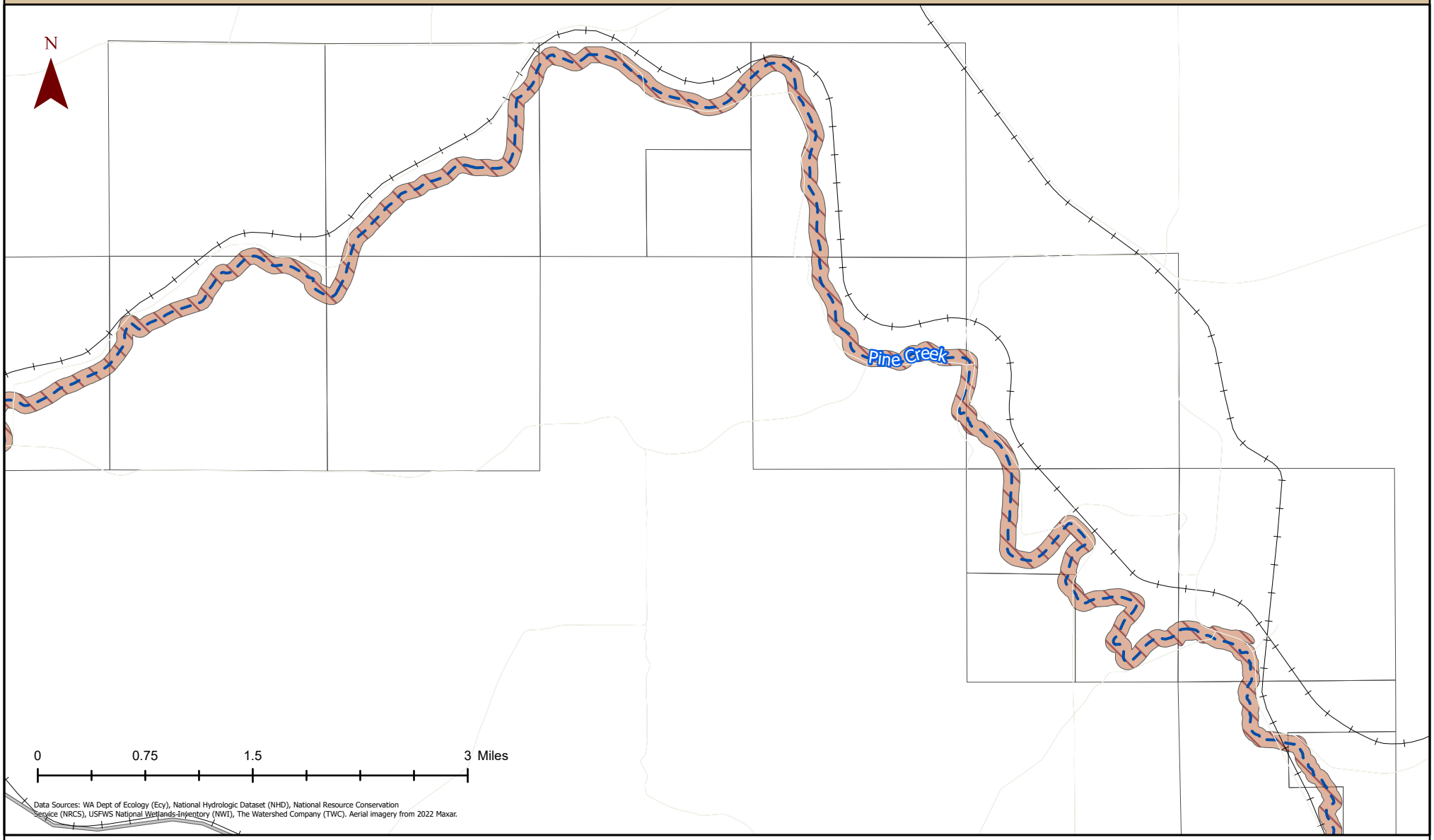

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Pine Creek - 31

## Official Shoreline Maps



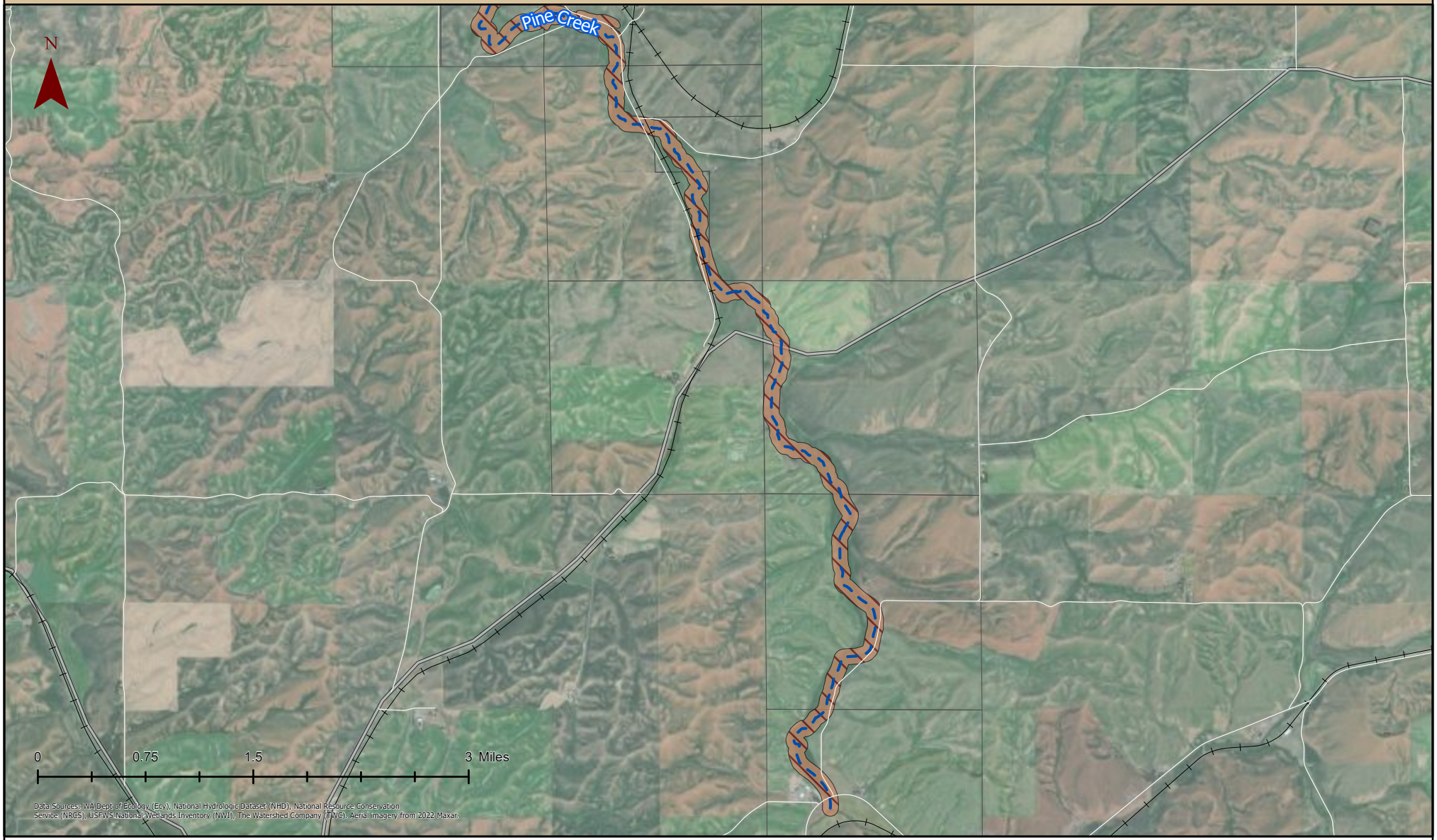

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Pine Creek - 32

## Official Shoreline Maps



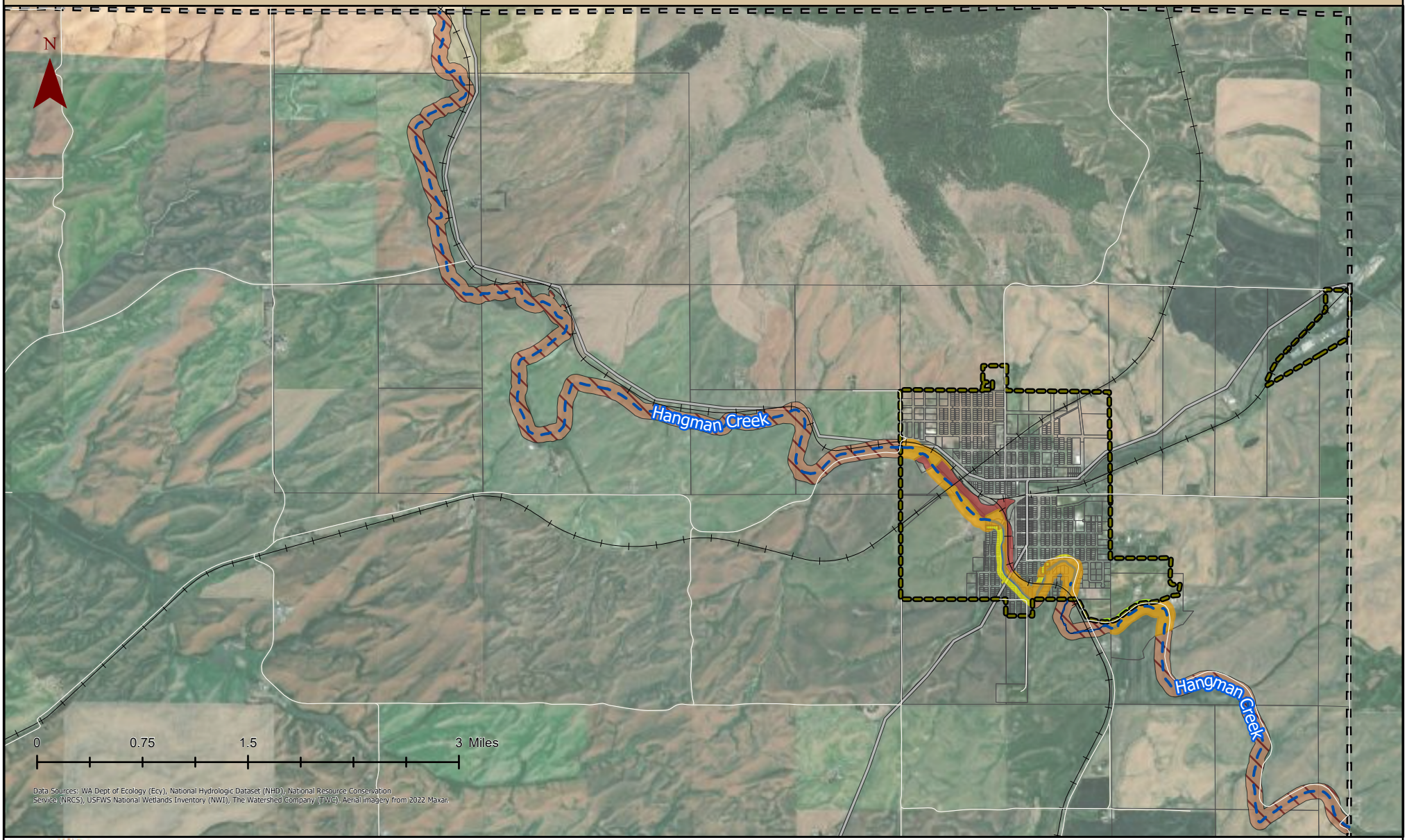

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Hangman Creek- Tekoa - Northeast Corner - 33

## Official Shoreline Maps



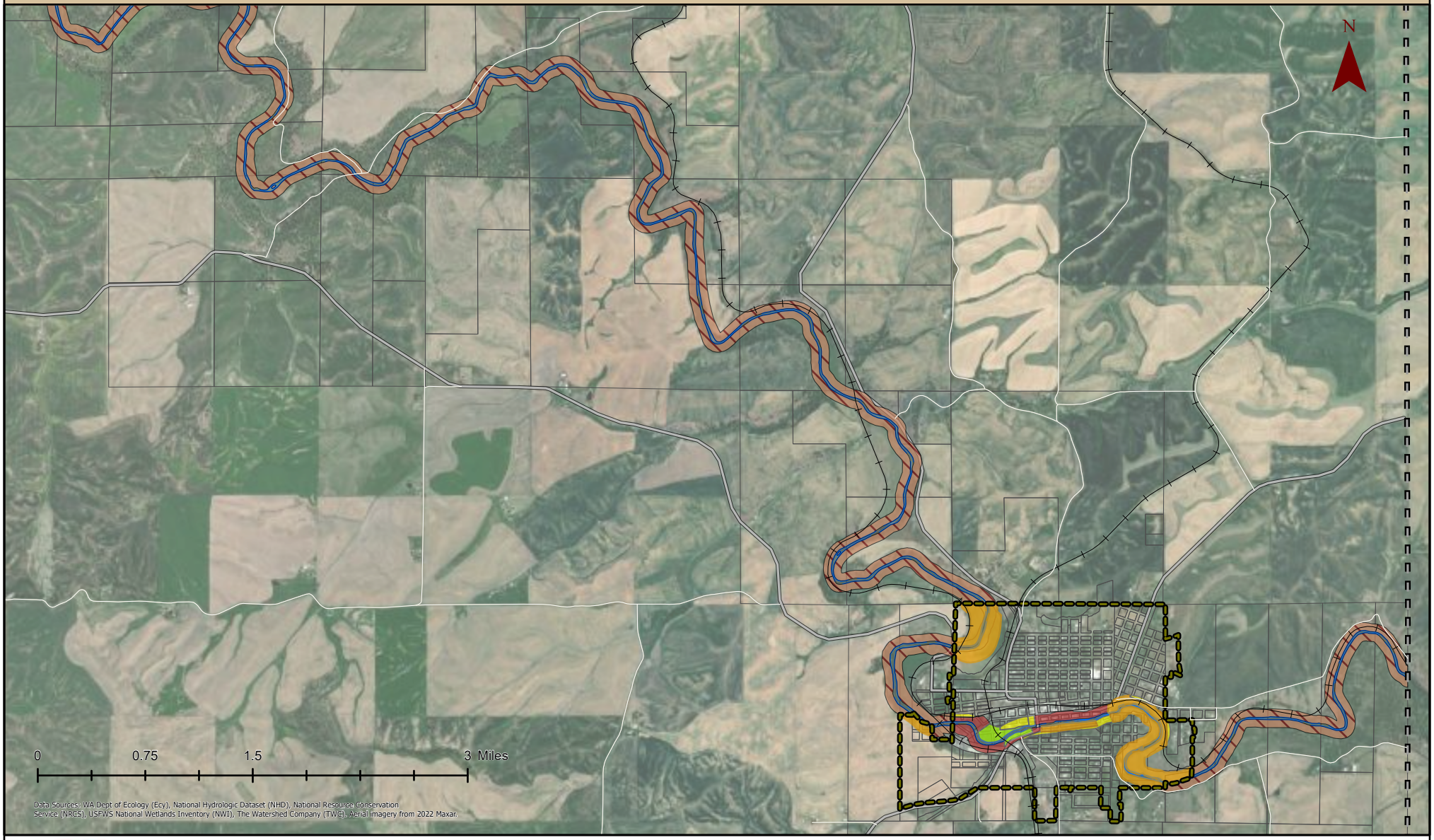

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Palouse River - Palouse - 34

## Official Shoreline Maps



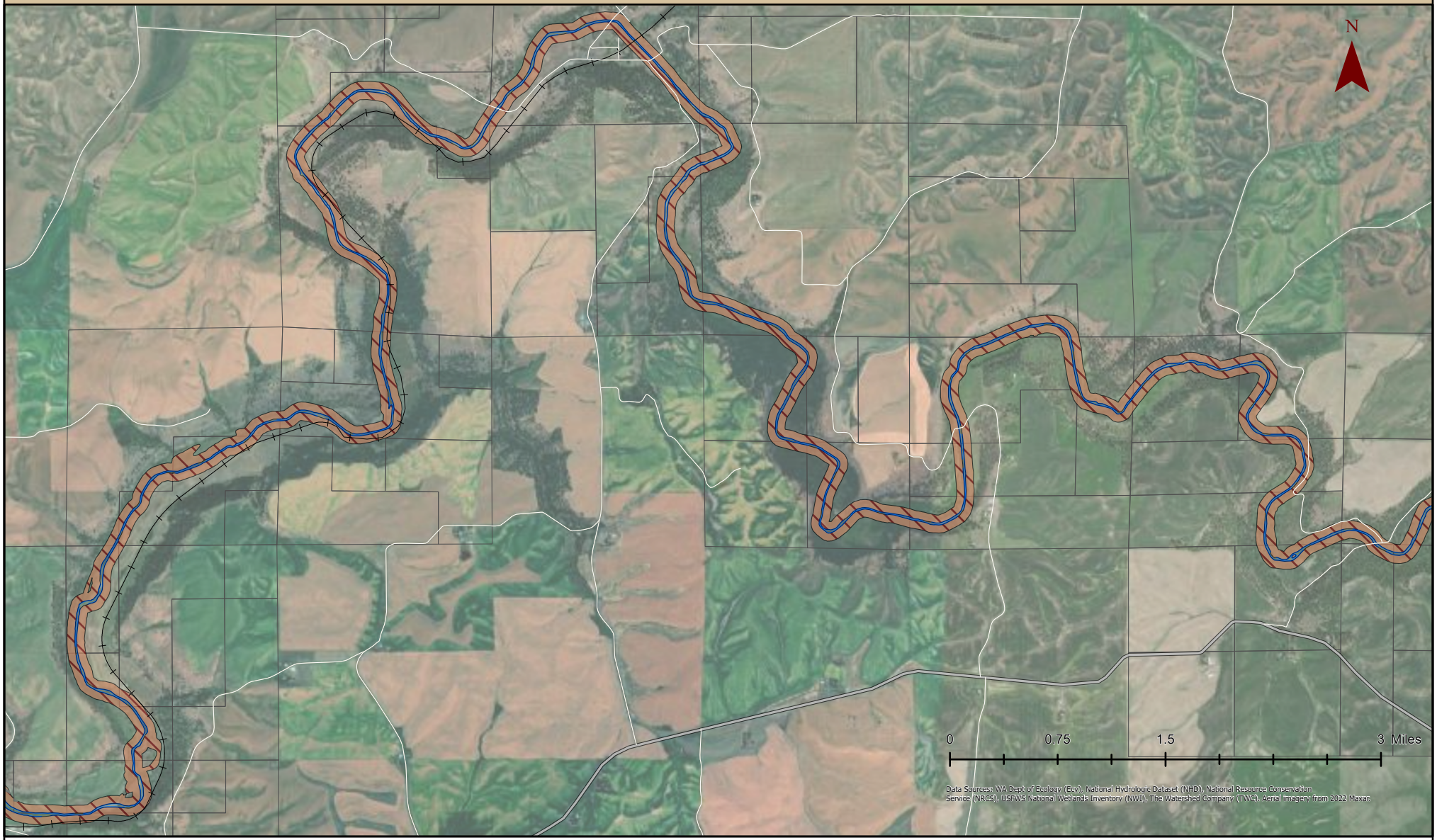

WHITMAN COUNTY COALITION SMP UPDATE

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- Whitman Parcels
- County Line

# Whitman County - Palouse River - 35

## Official Shoreline Maps



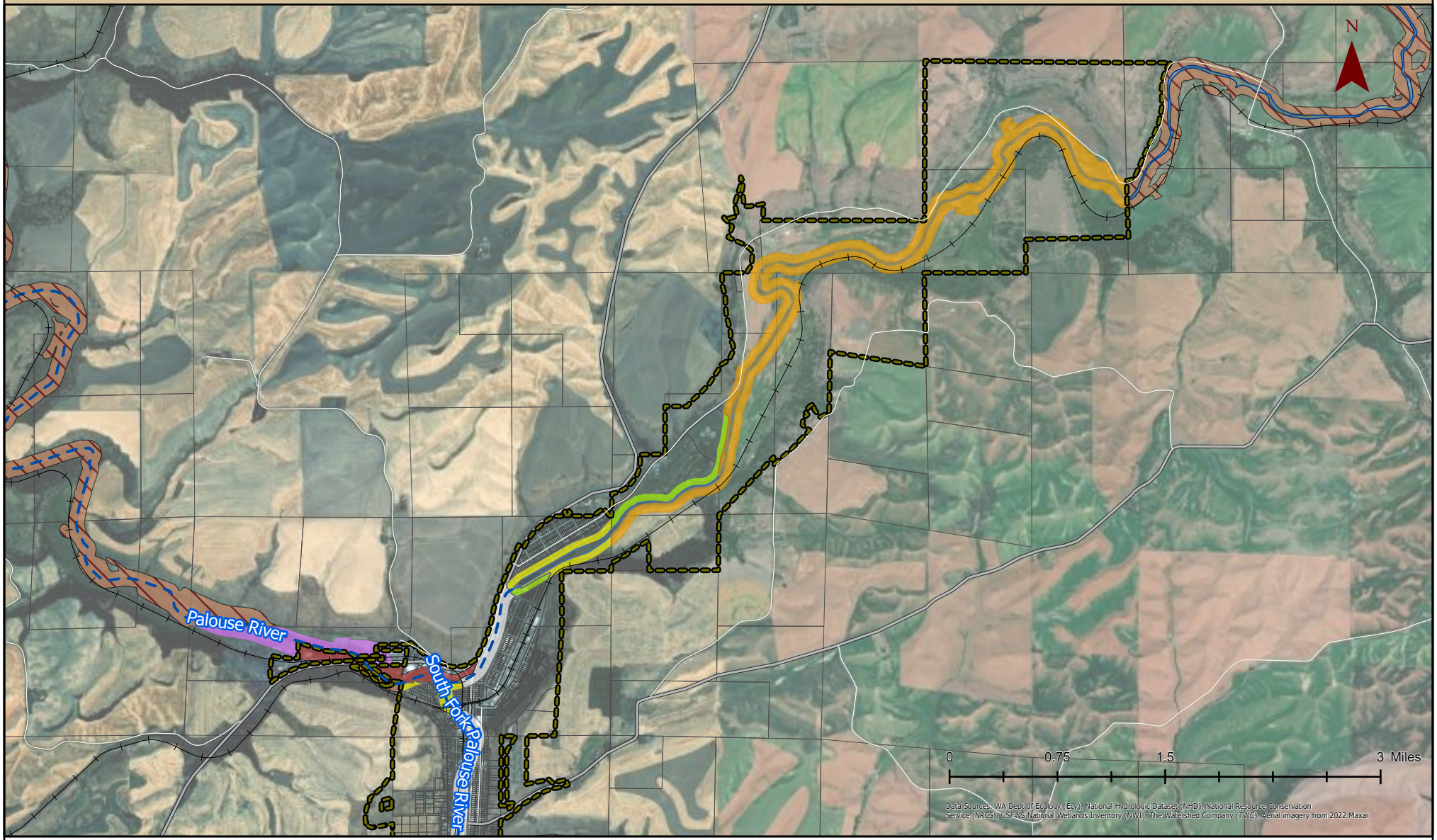

WHITMAN COUNTY COALITION SMP UPDATE

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- SMP Stream
- Shoreline Residential
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- Whitman Parcels
- County Line

# Whitman County - Palouse River - Colfax - 36

## Official Shoreline Maps



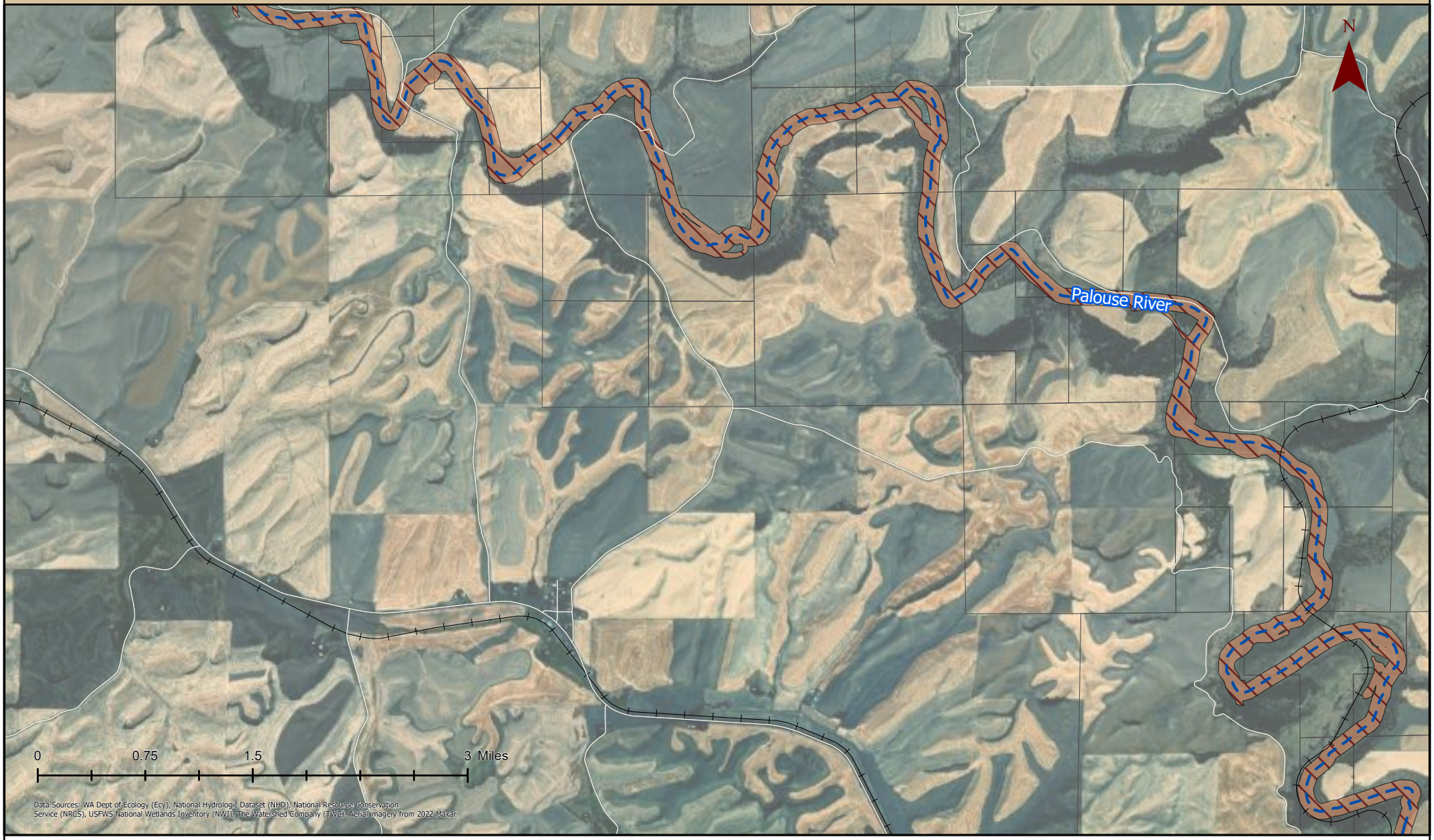

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
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- Rural Conservancy
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- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Colfax Flume
- Whitman Parcels
- County Line

# Whitman County - Palouse River - 37

## Official Shoreline Maps



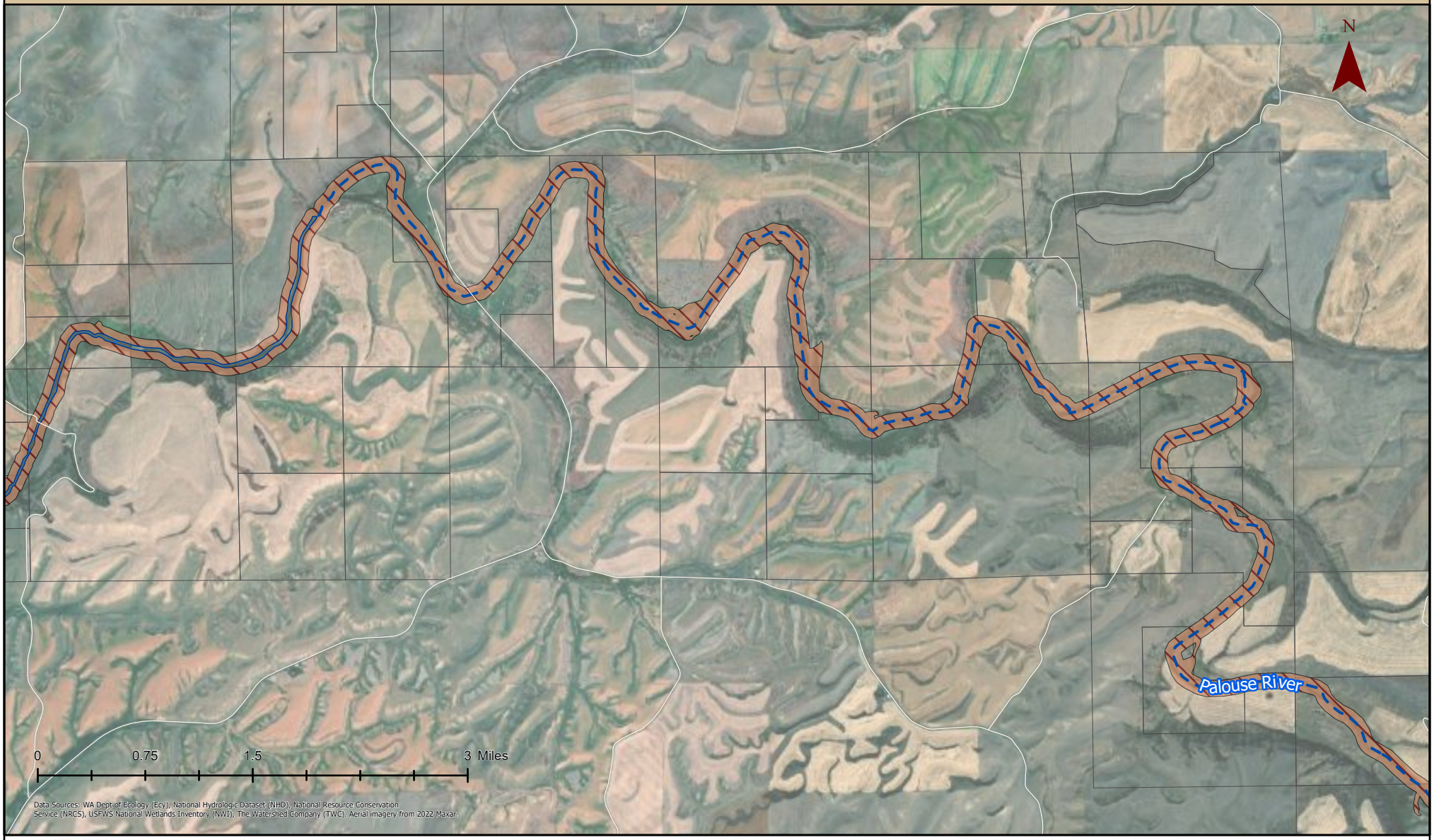

WHITMAN COUNTY COALITION SMP UPDATE

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- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
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- Whitman Parcels
- County Line

# Whitman County - Palouse River - 38

## Official Shoreline Maps



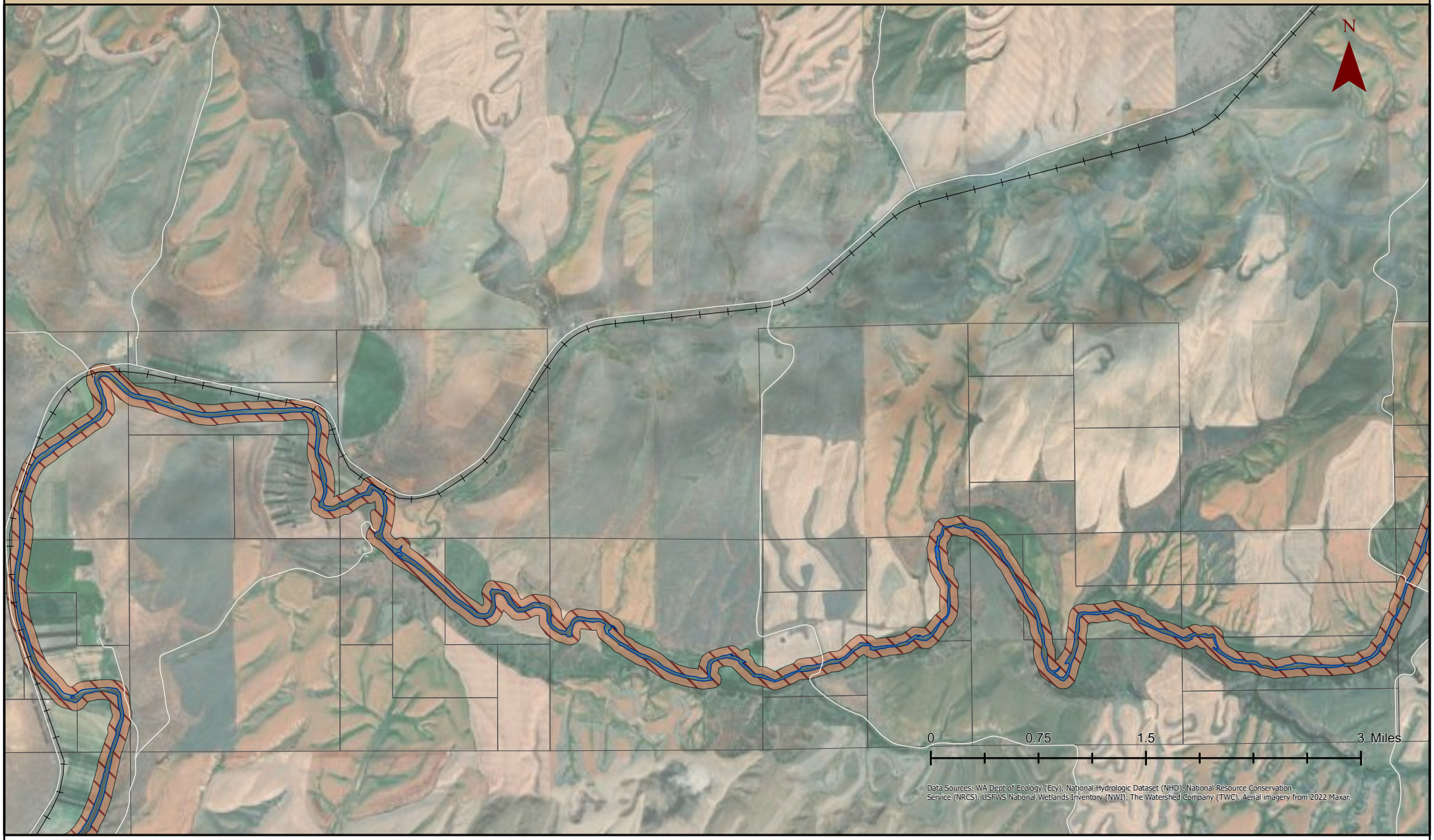

WHITMAN COUNTY COALITION SMP UPDATE

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- County Line

# Whitman County - Palouse River - 39

## Official Shoreline Maps



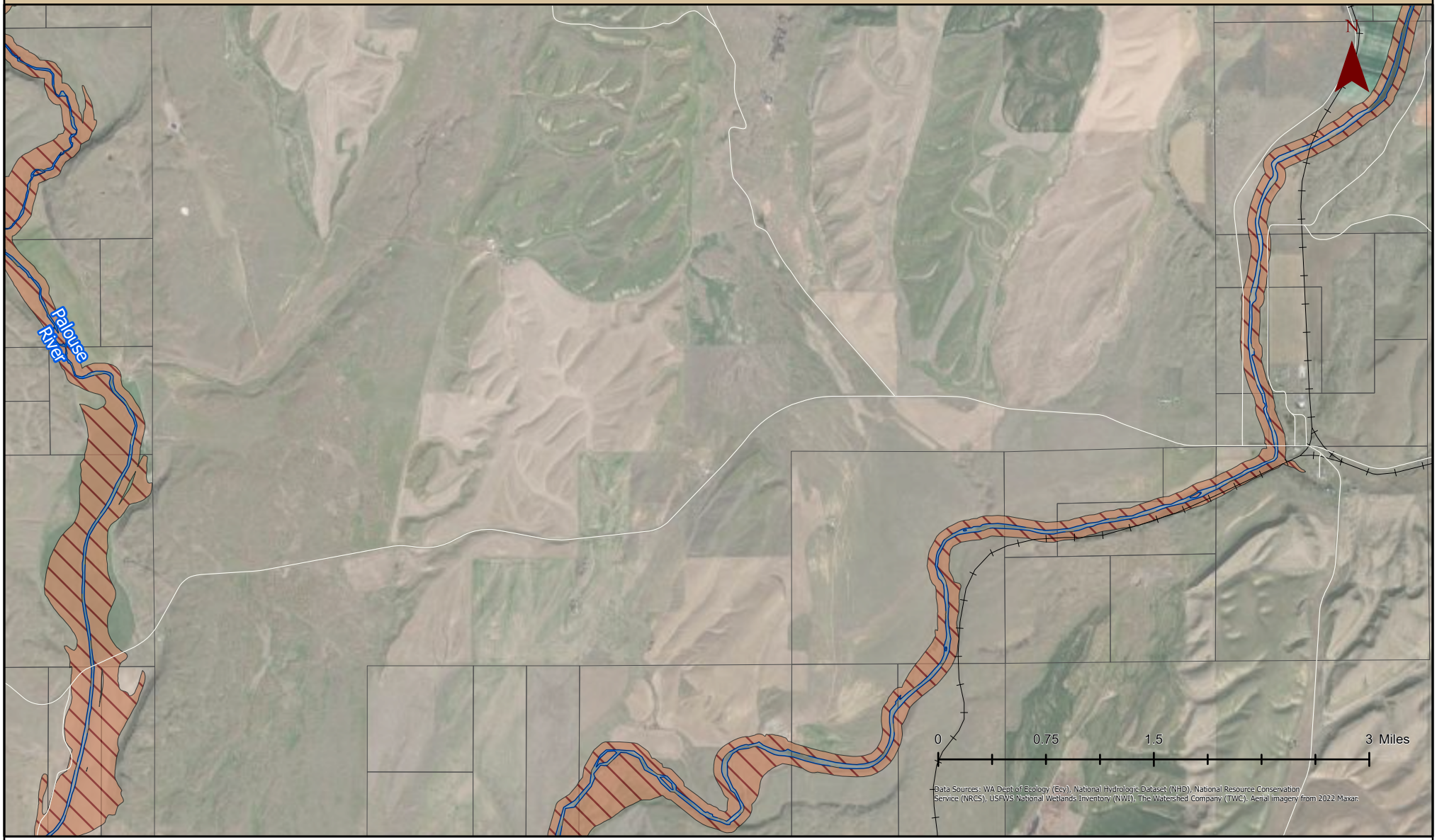

WHITMAN COUNTY COALITION SMP UPDATE

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# Whitman County - Palouse River - 40

## Official Shoreline Maps



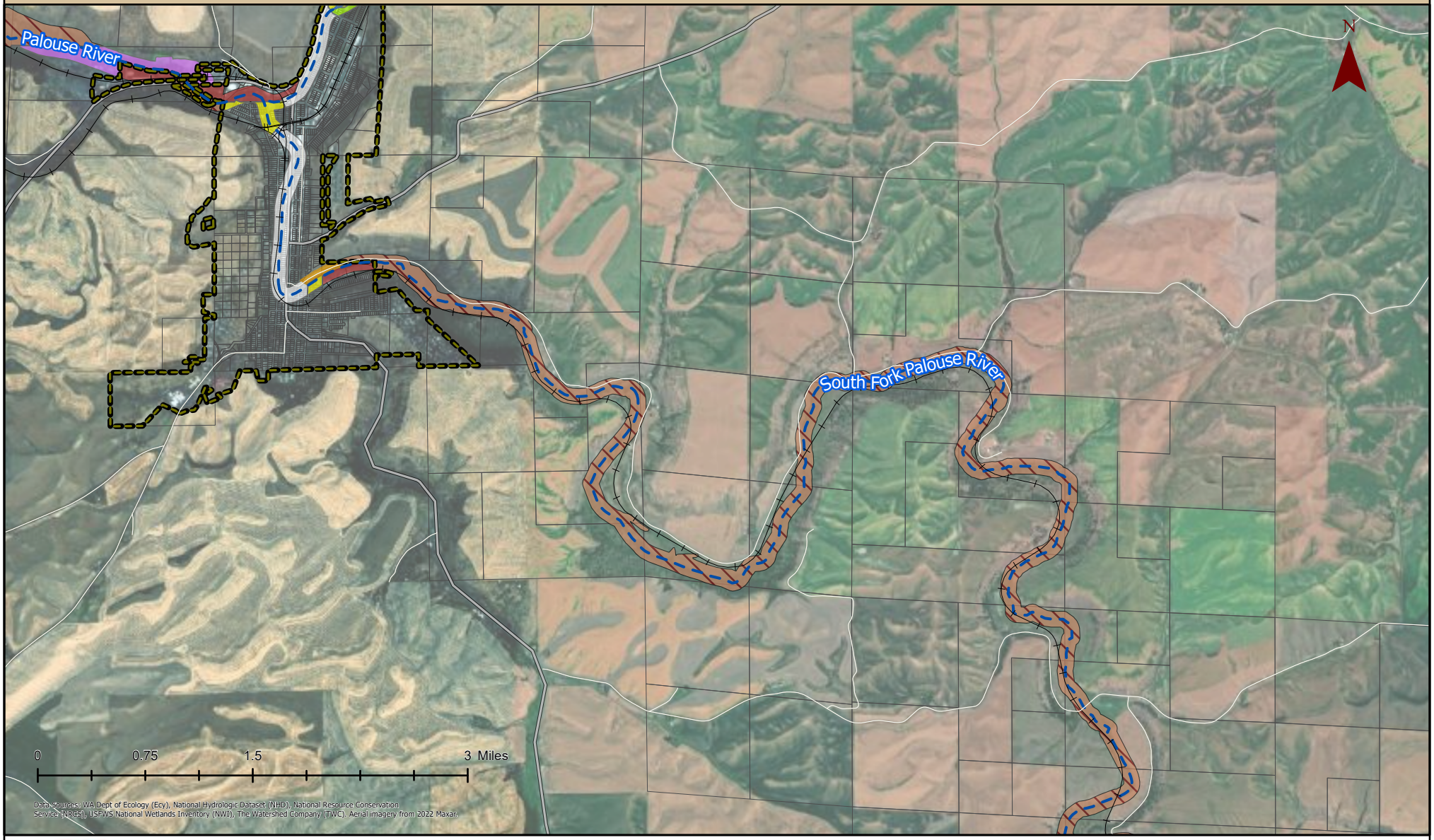

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
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- County Line

# Whitman County - South Fork Palouse River - Colfax - 41

## Official Shoreline Maps



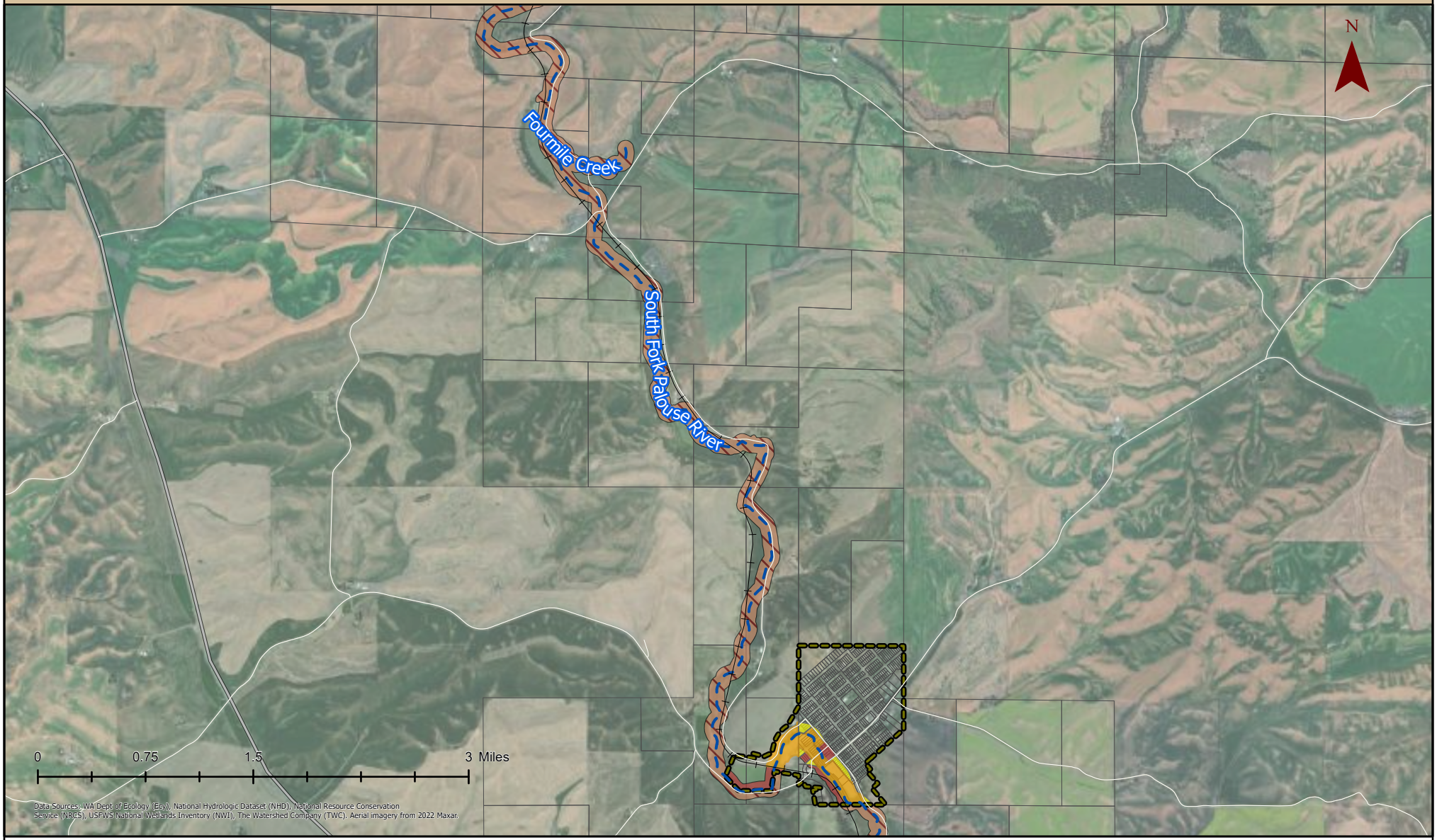

WHITMAN COUNTY COALITION SMP UPDATE

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- Shoreline Parks
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- Rural Industrial/Port
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- Whitman Parcels
- County Line

# Whitman County - South Fork Palouse River - Albion - 46

## Official Shoreline Maps



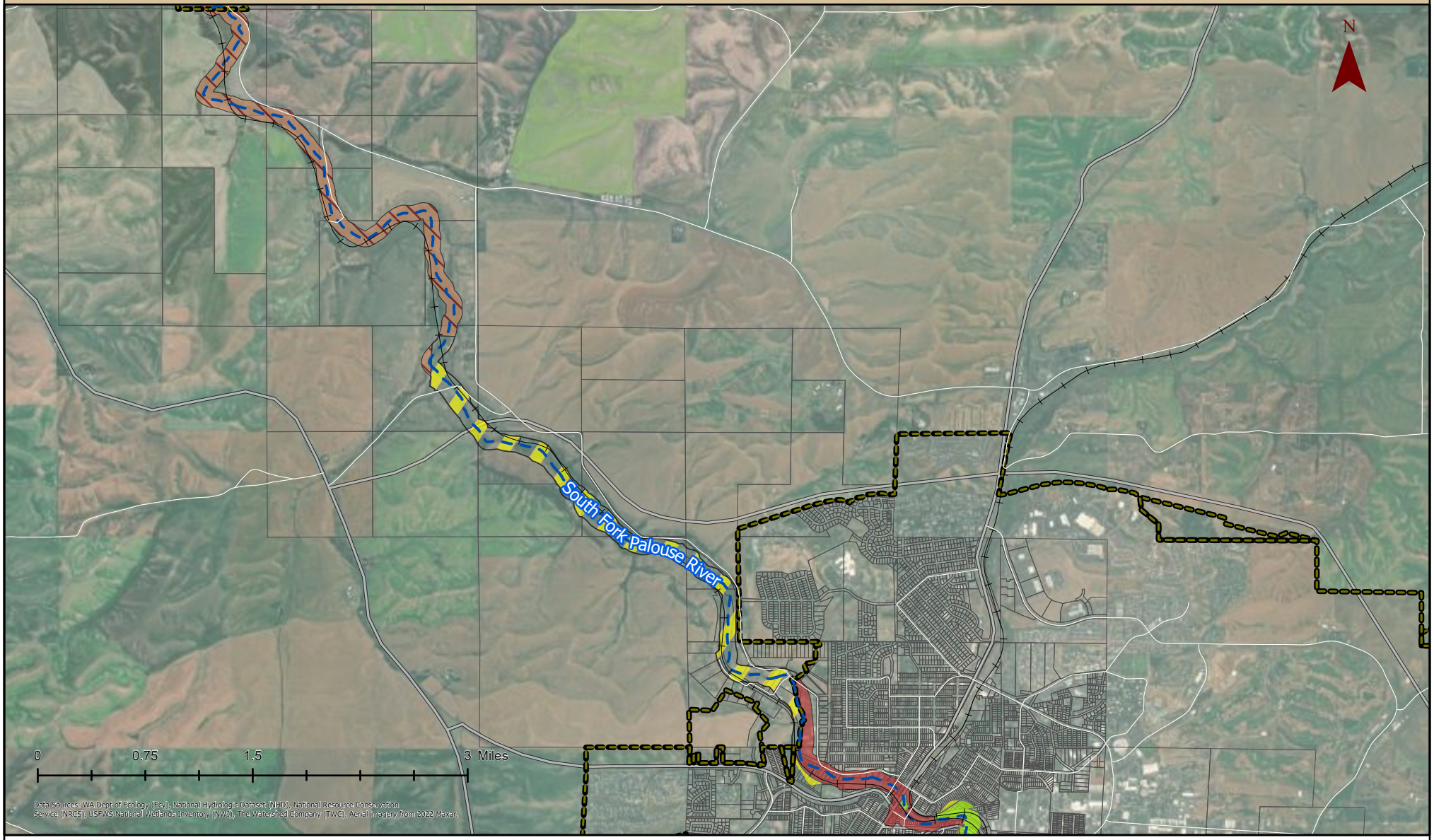

WHITMAN COUNTY COALITION SMP UPDATE

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# Whitman County - South Fork Palouse River - Pullman - 43

## Official Shoreline Maps



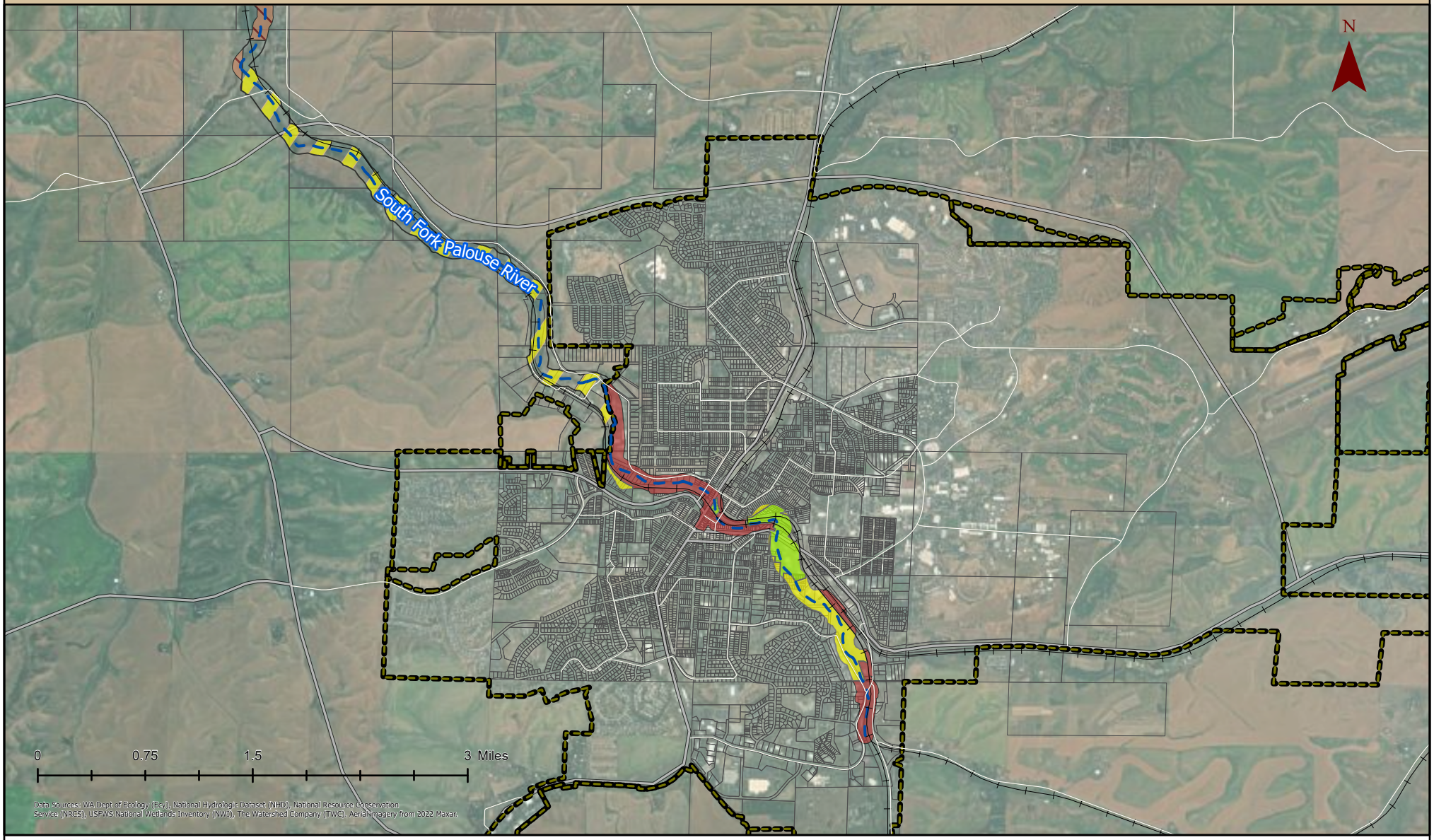

WHITMAN COUNTY COALITION SMP UPDATE

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# Whitman County - South Fork Palouse River - Pullman - 44

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
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- Shoreline Parks
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# Whitman County - Union Flat Creek - 45

## Official Shoreline Maps



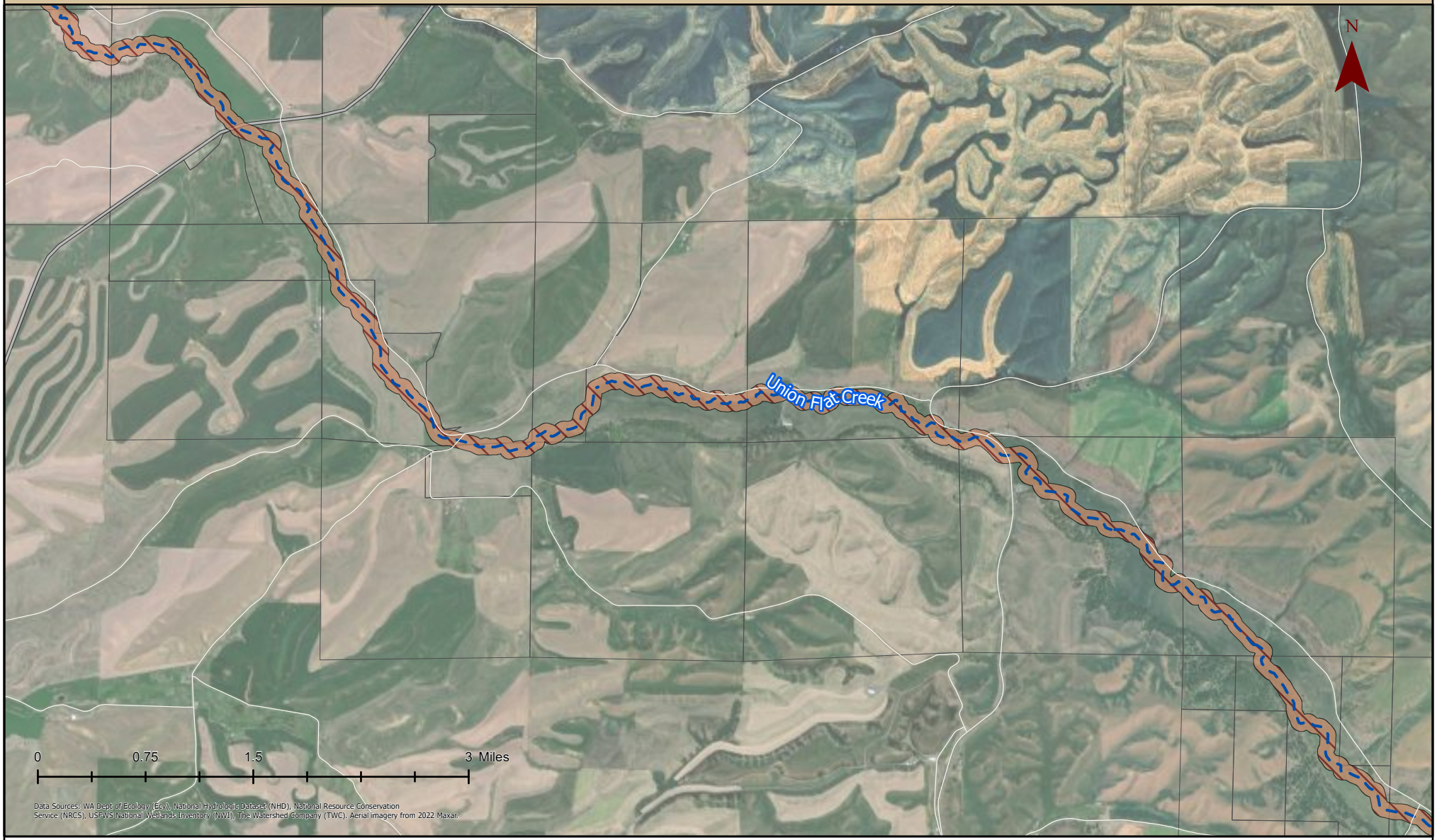

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Union Flat Creek - 46

## Official Shoreline Maps



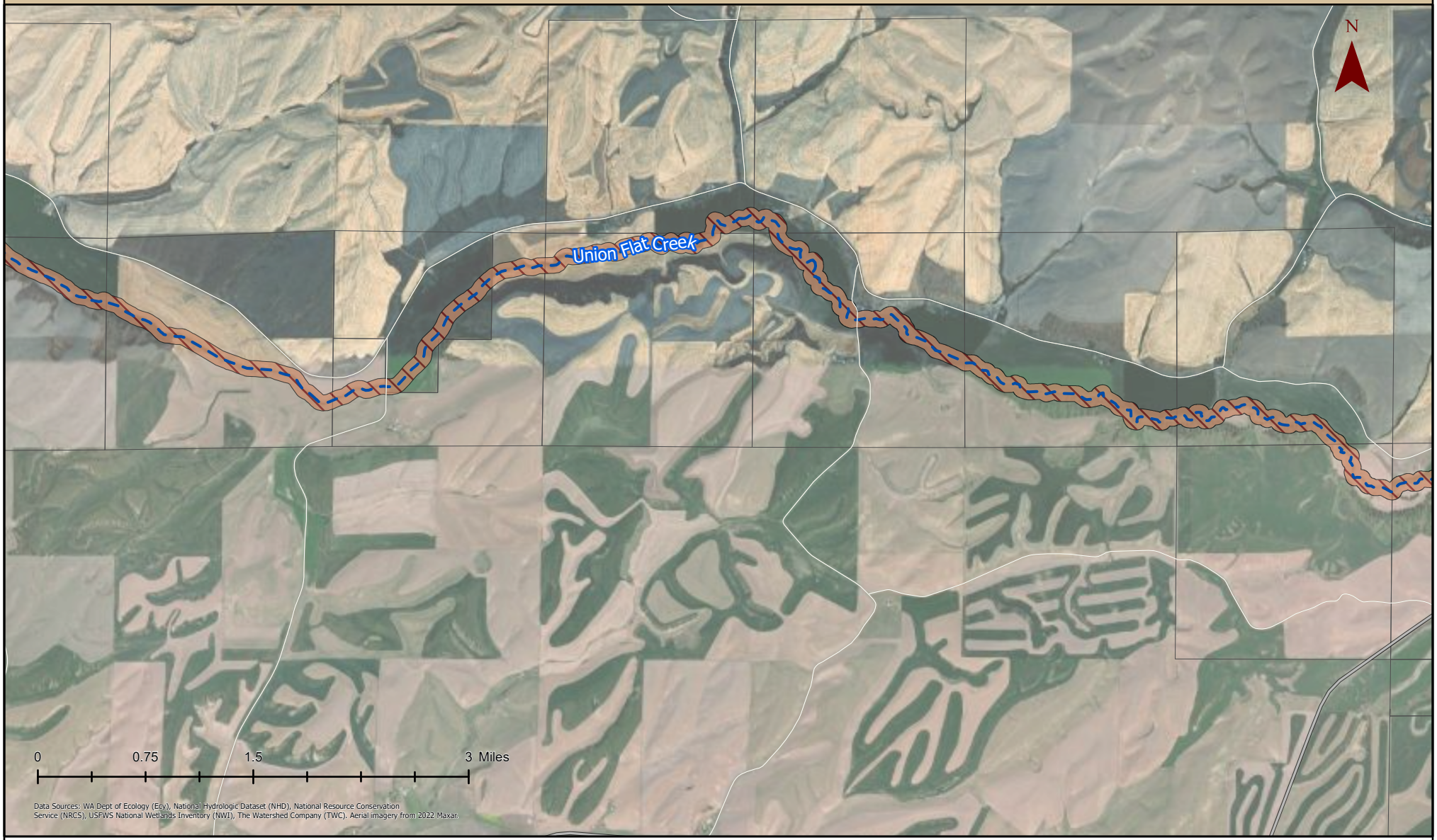

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
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- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
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- Whitman Parcels
- County Line

# Whitman County - Union Flat Creek - 47

## Official Shoreline Maps



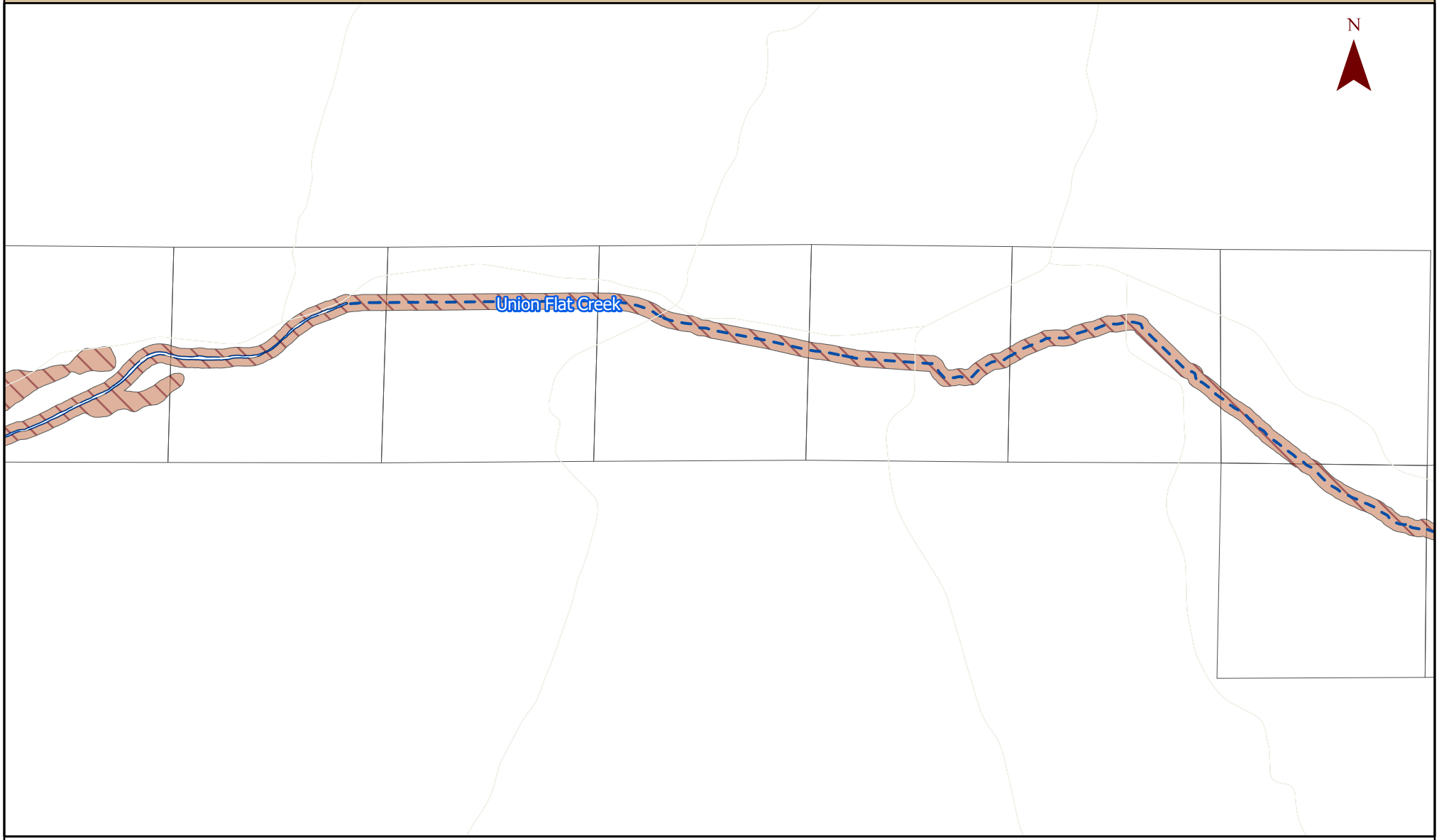

WHITMAN COUNTY COALITION SMP UPDATE

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- High Intensity
- Shoreline Parks
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- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Union Flat Creek - 48

## Official Shoreline Maps



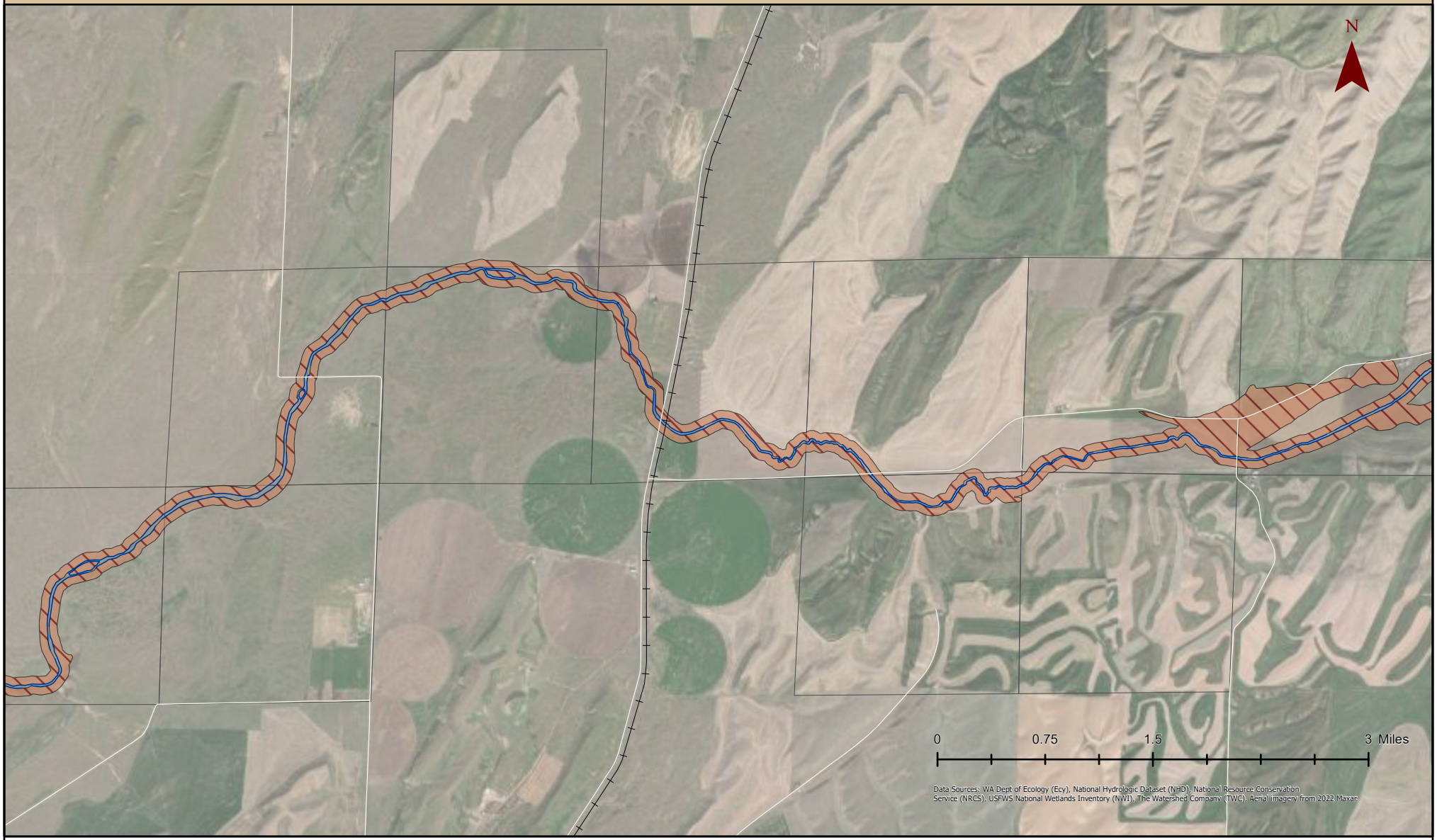

WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
- Rural Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line

# Whitman County - Union Flat Creek - 49

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Urban Conservancy
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- High Intensity
- Shoreline Parks
- Town Limits
- Rural Industrial/Port
- Whitman Parcels
- County Line



# WHITMAN COUNTY
# SHORELINE MASTER PROGRAM

**Adopted Ord. XX**
**Approved by Ecology XX**
**Effective XX**
**Periodic Update Working Draft: January 11, 2023**

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# 19.63.100 Introduction

## 19.63.101 TITLE

This document shall be known and may be cited as the Whitman County Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 19.63.102 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 19.63.103 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the states' shorelines. "
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including ". the land and its vegetation and wildlife, and the water of the state and their aquatic life. "

The intent of the Whitman County Shoreline Master Program is to ensure comprehensive planning for the County's shorelines and to ensure the adoption and implementation of use regulations, together with maps, diagrams, charts, or other description material and text, a statement of desired goals, and standards developed in accordance with the policies adopted by the State. A complete list of the County's shorelines is provided in Subsection 19.63.501(A).

## 19.63.104 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County developed and adopted its first Shoreline Master Program (SMP) in 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities.

The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP that are approved under RCW 90.58 shall be considered an element of the County's comprehensive



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planning, and all regulatory elements of this SMP shall be considered a part of the County's development regulations.

After the County's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the County and approved by Ecology.

## 19.63.105 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection C, all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 19.63.102 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Section 19.63.200 (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP;
2. Interior building improvements that do not change the classified use of the structure or land, asclassified in County zoning and Section 19.63.610 (Shoreline Use and Modification Table);
3. Exterior structure maintenance activities, including painting and roofing, as long as it does notexpand the existing footprint of the structure;
4. 4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
5. 5. As of the effective date of the SMP, legal pre-existing residential uses and structures where nochange or new activity is proposed.
6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 19.63.306(B) (Exemptions) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply countywide to all nonfederal uses, activities, and development. Applicability of this Master Program to activities on federal lands and undertaken by federal agencies shall be consistent with WAC 173-27-060(3).

F. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership. Applicability of this Master Program to federal lands shall be consistent with WAC 173-27-060(3).

G. A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter,

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the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

### 19.63.106 LIBERAL CONSTRUCTION

As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted. In the event the provisions of this Program conflict with provisions of federal, state, county or city regulations, the provision that is the most protective of shoreline resources shall prevail, when consistent with policies set out in the SMA.

### 19.63.107 SEVERABILITY

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

### 19.63.108 EFFECTIVE DATE

The SMP is hereby adopted on the 16th day of November, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

### 19.63.109 DOCUMENT ORGANIZATION

The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other County planning documents such as the Whitman County Comprehensive Plan and the Whitman County Code (WCC). The organization of the SMP and the purpose for each chapter is explained below.

A. 19.63.100. Introduction: provides background, purpose and legal authority.

B. 19.63.200. Definitions: provides definitions for terms used throughout the SMP.

C. 19.63.300. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.

D. 19.63.400. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.

E. 19.63.500. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.

F. 19.63.600. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.

G. 19.63.700. Shoreline Critical Area Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.

H. 19.63.800. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.

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l. 19.63.900. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.



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# 19.63.200 Definitions

## A

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

**Accessory dwelling unit.** An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory use or structure.** A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

**Act.** The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent.** To be nearby and not necessarily abutting.

**Administrator or SMP Administrator.** The County designee charged with the responsibility of administering the Whitman County SMP. The County Planner, or his/her designee, is designated as the Administrator.

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

**Agricultural equipment and agricultural facilities.** Includes, but is not limited to:

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

**Agricultural land.** Those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

**Agricultural lands of long-term significance.** Those lands that are not already characterized by urban



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growth and that have long-term significance for the commercial production of food or other agricultural products.

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

**Agricultural related industries.** Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands.** A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Agri-tourism (or Agricultural tourism).** The act of visiting a working form or an agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation.

**Alkali wetlands.** Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

**Amendment.** A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Anadromous fish.** Fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juvenilesto adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

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**Animal feedlot.** See "Feedlot."

**Animal husbandry.** Any agricultural activity in which animals and/or livestock are reared, lodged, bred, or are kept in order to sell the products they produce.

**Applicant.** A person who files an application for permit under this Master Program and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, or the authorized agent of the owner.

**Approval.** An official action by a local government legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this chapter; or an official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture.** The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer.** A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer, sole source.** An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Area of special flood hazard.** The land in a floodplain subject to a one-percent (1%) or greater chance of flooding in any given year.

**Associated wetlands.** Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

**Avalanche hazard.** A large mass of snow or ice, sometimes accompanied by other material, moving rapidly down a mountain slope.

## B

**Base flood or 100-year flood.** The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by Whitman County; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by Whitman County.

**Basement.** Any area of the building having its floor below ground level on all sides.

**Best management practices or BMP**. Conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment;
2. Minimize adverse impacts to surface water and ground water flow and circulation patterns and



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3. to the chemical, physical, and biological characteristics of wetlands; Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and
4. Provide standards for proper use of chemical herbicides within critical areas.

The County shall monitor the application of best management practices to ensure that the standards and policies of this Chapter are adhered to.

**Biodiversity**. The variety of animal and plant life and its ecological processes and interconnections – represented by the richness of ecological systems and the life that depends on them, including human life and economies.

**Board of Adjustment**. The Whitman County Board of Adjustment.

**Boat launch**. An area that is developed for boating ingress and egress from the water.

**Boating facilities**. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.

**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;
3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

## C

**Channel migration zone or CMZ**. The area along a river within which the channel)s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial dairying**. A farm operation producing milk products for commercial sales.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

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**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Comprehensive Plan**. The officially adopted document and any amendments or supplements thereto adopted pursuant to State Law 36.70, which sets forth policies and standards for determining the best use of land and other resources of the county.

**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical facility**. A facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

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## D

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.
5. Dismantling or removing structures if there is no other associated development or re-development.

**Development permit**. Any permit issued by the County, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by Whitman County, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification ofessential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this titleor under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 19.63.903 (Dredging and Dredge Material Disposal), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

## E

**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not



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necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environmentswhich could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Elevated building**. A building that has no basement and its lowest elevated floor is raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**Enhancement.** The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

**Erosion.** The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard.

**Excavation**. Any person-made cut, cavity, trench, or depression in the earth's surface, formed by earth removal. (WAC 296-155-650(2)(h))

**Exempt**. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

## F

**Fair market value**. The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development.This would normally equate to the cost of hiring a contractor to undertake the development from startto 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 marketvalue of any donated, contributed or found labor, equipment or materials.

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action. In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the County may weigh the actions' relative public costs and public benefits, considered in the short-and long-



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term time frames.

**Federal Emergency Management Agency (FEMA)**. The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and non-commercial activities.

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Section 19.63.704(B).

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

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of apier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood Insurance Rate Map (FIRM)**. 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**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying ~~streamward~~stream ward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being ~~identified~~identified,



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under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative groundcover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the Planning Director in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

## G

**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.



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3. Rough grade is a stage where grade conforms approximately to an approved plan.Finish
4. grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin.** A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also "Weir."

**Groundwater.** Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines.** Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

## H

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

**Hard stabilization.** Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**High intensity land use**. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, some agricultural practices, and commercial and industrial land uses.

**Houseboat or floating home**. Means a vessel or any floating structure other than a floating home, as defined by this chapter: (a) that is designed or used primarily as a residence on the water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

**Hydric Soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to



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develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

## I

**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run offthe surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-lieu-fee program**. An agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees' required mitigation.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-Rill**. Areas subject to sheet wash.

**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

## J

**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

## L

**Lahars**. Mudflows and debris flows originating from the slopes of a volcano.

**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. For a complete definition, see WAC 365-190-120(6).

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**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

## M

**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

**Master Program**. The comprehensive shoreline master program for Whitman County, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where atleast 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. The use of any or all of the following actions that are listed in descending order ofpreference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;
4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses use or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.

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## N

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**New construction**. Structures for which the start of construction commence on or after the effective date of this ordinance.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the County's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Non-conforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 County and so long as development conforms to all other requirements of this Master Program and the Act.

**Non-conforming Use**. An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program. ~~or~~

**Non-conforming Structure/Development**. A building or structure ~~or land use~~ which was lawfully established, existing and maintained at the effective date of the provisions of this Chapter but which, because of the application of this Chapter to it, is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program. ~~no longer conforms to the regulations prescribed in this Chapter for theuse district or shoreline environment designation in which it is located.~~

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water-enjoyment.

## O

**Off-Site Compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-Site Compensation**. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

**Ordinary ~~high water~~high-water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the County or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot befound, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

## P

**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the

aquifer or confining bed and is independent of the force causing movement.

**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

**Pig farming**. A farming activity that involves the raising and breeding of domestic pigs principally for food products for consumption.

**Poultry raising**. A farming activity that involves the raising of domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

**Practical alternative**. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Prior converted croplands (PCCs)**. Wetlands that were drained, dredged, filled, leveled or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, to enable production of an agricultural commodity, and that: 1) have had an agricultural commodity planted or produced at least once prior to December 23, 1985; 2) do not have standing water for more than 14 consecutive days during the growing season, and 3) have not since been abandoned. The Growth Management Act, RCW 36.70A.030(21), requires local governments to regulate wetlands that meet the definition of biological wetlands. This includes Prior Converted Croplands (PCCs), farmed wetlands and isolated wetlands. These wetlands provide critical functions and habitat and are regulated by this ordinance (see the definition of "wetlands" and Chapter 9.05A). If a PCC or farmed wetland changes to a non-agricultural use, or is abandoned, they may be regulated under federal, state or local laws. As long as a PCC or farmed wetland stays in agricultural use no delineation is required.

**Priority habitat and species (PHS)**. As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management.

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or County zoning are not considered

appropriate and are not allowed.

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural ~~environment, or~~environment or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public Access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

## Q

**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

## R

**Recharge**. The process involved in the absorption and addition of water to groundwater.

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**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreational development**. Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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

**Residential**. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Riparian area**. Areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat

for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of the bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

## S

**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic Hazard Areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

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**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback**. The distance in feet as measured from a lot line to the sill line of a building, or the closest point of a structure to the lot line. In the case where there is a leased area within a parcel of land, the setback shall be measured from the lease line to the sill of a building, or the closest point of a structure to the lease line.

**Shall**. A mandate; the action must be done.

**Shorelands or shoreland areas**. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams and lakes which are subject to the provisions of this chapter; the same to bedesignated as to location by the Department of Ecology.

**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the County on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

**Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

**Shorelines of statewide significance**. The following are shorelines of statewide significance:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred

square miles of drainage area, whichever is longer; and

3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Should**. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

**Significant adverse effect/impact.** Any noticeable or ~~measureable~~measurable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well associal values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**SMP Administrator**. See "Administrator."

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted bythe scientific community.

**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern designated by the County due to their population status or their sensitivity to habitat manipulation.

**Species, Priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, Threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, Sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining

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and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at leastintermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)). "Structure," for the purposes of applying the regulations prescribed by Section 19.63.707, shall mean any walled and roofed building or mobile home that is principally above ground.

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $~~76,041~~68,504,or any development which materially interferes with the normal public use of the water or shorelines ofthe state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

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**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by County Building Inspection, Environmental Health or Planning staff and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

**Substantially degrade**. To cause significant ecological impact.

## T

**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

## U

**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

## V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snow-melt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in Whitman County if it were not for the presence of tourists or visitors to the region.

## W

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. 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**. Any water-dependent, water-related, or water-enjoyment use.



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**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, or other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Wetlands**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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



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treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the



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construction of a road, street, or highway. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

Wetland Criteria:

(1) Wetlands are identified through the confirmation of three diagnostic factors:
  (i) A predominance of hydric soil
  (ii) The prevalence of hydrophytic vegetation
  (iii) Wetland hydrology
(2) Wetlands must meet the definition of all three wetland factors (soils, plants, hydrology), per Corps of Engineers Wetland Delineation Manual (USACE WRP Tech Report Y-87-1), and applicable regional supplements as required by WAC 173-22-035.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

**Wetland functions**. The natural processes performed by wetlands and ~~include~~included functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site foraquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

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# 19.63.300 Administration and Permitting

## 19.63.301 GENERAL COMPLIANCE

RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

## 19.63.302 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

A. SMP Administrator

The County shall designate an SMP Administrator, which shall be the County Planner or his or her designee. The SMP Administrator or his/her designee is hereby vested with the authority to:

1. Administrate this SMP.
2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.



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3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.
4. Make field inspections as needed, and prepare or require reports on shoreline permit applications.
5. Make written recommendations to the Board of Adjustment/Hearings Examiner, Planning Commission and Board of County Commissioners as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustment regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and Board of County Commissioners.
6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
7. Determine and collect fees for all necessary permits as provided in County ordinances or resolutions. The determination of which fees are required shall be established by resolution of the Board of County Commissioners.
8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA Official

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Whitman County Code.

C. Board of Adjustment

The Board of Adjustment is authorized to:

1. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.
2. Decide on appeals of administrative decisions issued by the Administrator of this SMP.

D. Planning Commission

The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the County's planning and regulatory program, and make recommendations for amendments thereof to the Board of County Commissioners.

E. Whitman County Commissioners

The Whitman County Commissioners are authorized to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.
2. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

## 19.63.303 ADMINISTRATION

~~A.~~ This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and



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enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

~~B.~~A. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the Whitman County Code 19.05 (Administration and Enforcement), Whitman County Code 19.06 (Board of Adjustment), and 19.63.306 (Shoreline Permits and Exemptions) of this title.

~~C.~~B. Shoreline Variances shall be processed in the same manner as a variance from the County's zoning code and shall be subject to all applicable provisions of Whitman County Code 19.05 (Administration and Enforcement) and 19.06 (Board of Adjustment) and 19.63.306 (Shoreline Permits and Exemptions) of this title.

~~D.~~C. Appeals of the final decision of the County with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.

~~E.~~D. The effective date of the County's decision shall be the date of filing with the Department of Ecologyas defined in RCW 90.58.140.

## 19.63.304 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. Whitman County is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. This Program will be enforced by the means and procedures set forth in the Whitman County Code.

## 19.63.305 SHORELINE ACTIVITY TRACKING

A. The County will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring
6. Net change in linear feet of flood hazard structures
7. Net changes in vegetation (area, character)

B. Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the County's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the County's Shoreline Analysis Report, changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent furtherdegradation and address the loss in ecological functions.



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## 19.63.306 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the County. At a minimum, the County shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Whitman County Code.
2. Per WAC 173-27-120, the County shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Application and Interpretation of Exemptions from a Substantial Development Permit

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.
3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
4. If any part of a proposed development that is located within shoreline jurisdiction is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entirety of the proposed development project located in jurisdiction, including any parts that would otherwise be exempt.
5. The County may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the County's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

1. The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter or Statement of exemption, as provided for in Subsections (B) and (D) of this Section.
2. Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.
3. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:
    I. In fresh waters the fair market value of the dock does not exceed:
        1. $22,500 dollars for docks that are constructed to replace



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existing docks, and are of equal or lesser square footage than the existing dock being replaced, or

2. $11,200 for all other docks constructed in fresh waters.

4. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

I. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

II. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

III. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

IV. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

V. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

5. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.

6. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

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~~C.~~ Letter or Statement of Exemption

1. Letter of Exemption:

D.

a. A required Letter of Exemption shall be issued by the County when a development application is determined to meet the listed criteria for an exemption and the development is subject to one or more of the following federal permit requirements:

   1. A U.S. Army Corps of Engineers section 10 permit under the Rivers and Harbors Act of 1899 (generally applying to any project occurring on or over navigable waters); or
   2. A section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the County's analysis of the consistency of the project with this SMP and the SMA. The Letter shall be sent to the applicant and the Department of Ecology.

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2. Statement of Exemption:
    a. The County is hereby authorized to grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The Statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.
    b. Statements of Exemption are encouraged to be obtained by applicants whose projects meet any of the exemptions listed in Subsection 19.63.306(C), and which may alter or disturb the ground or vegetation. The Statement shall be sent to the applicant and held on file at the County with the option of sending the Statement to the Department of Ecology.
3. Letters or Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

~~D.~~E. Permit Application Submittal Requirements

1. Shoreline applications are classified as follows:
    a. Shoreline Substantial Development Permit
    b. Shoreline Conditional Use Permit
    c. Shoreline Variance
    d. Shoreline Exemption
2. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the County, including a combined permit application form.
3. The contents of permit applications must be consistent with WAC 173-27-180 and Whitman County Code.
4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.
5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.
6. At the time of application, the applicant must pay the application fee.

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~~E.~~F. Shoreline Substantial Development Permit

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 19.63.306(B) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 19.63.105 (Applicability).
2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:
   a. The policies and procedures of the SMA;
   b. The provisions of WAC 173-27; and
   c. This SMP.
3. The County may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.
4. Nothing shall interfere with the County's ability to require compliance with all other applicable plans and laws.

~~F.~~G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Board of Adjustment/Hearing Examiner and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Chapter 19.06 WCC (Board of Adjustment).
2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.
3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.
4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.
5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

~~G.~~H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Chapters 19.06.020 WCC (Variance) and 19.06.021 WCC (Administrative Variances).
2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must



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demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.

4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

~~H.~~I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the County to Ecology upon a final decision by the County consistent with WAC 173-27-130 (Filing with department), and then processed by Ecology consistent with WAC 173-27-190 (Permits for substantial development, conditional use, or variance) and WAC 173-27-200 (Department review of conditional use and variance permits).

~~I.~~J. Time Limits

Construction and activities authorized by a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance are subject to the time limitations of WAC 173-27-090 (Time requirements of a permit).

~~J.~~K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

## 19.63.307 NON-CONFORMING USES, STRUCTURES, LOTS

A. Non-conforming uses or developments ~~or developments~~ are shoreline uses ~~or development~~ which were lawfully constructed or ~~constructed or~~ established prior to the effective date of this Master Program as approved by Ecology, ~~or~~ or amendments to this Master Program as approved by Ecology, but which do not conform to presentregulations or standards of this Master Program. Such uses shall conform to all applicable County regulations.

B. Non-conforming Uses

1. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non-conforming use.

2. A use which is listed as a conditional use but which existed prior to adoption or applicability of this Master Program or any relevant amendment and for which a Shoreline Conditional Use Permit has



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not been obtained shall be considered a non-conforming use.

3. If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.

4. In accordance with Whitman County Code 19.54, when a non-conforming use is discontinued for a period of six months or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.

   A. In accordance with Whitman County Code 19.54, if said non-conforming use is a single-family dwelling which is discontinued for a period of six months or longer, it shall not be subject to the restrictions of the zone classification if the lapse in use is occasioned by the good faith, continuing effort to sell said building for use as a single-family dwelling.

~~B.~~C. Non-conforming ~~Uses and~~ Structures

1. Any ~~use,~~ structure~~, or lot~~ which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non-conforming use.

2. ~~A use which is listed as a conditional use but which existed prior to adoption or applicability of this Master Program or any relevant amendment and for which a Shoreline Conditional Use Permit has not been obtained shall be considered a non-conforming use.~~

   A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements of this Section shall apply as they apply to preexisting non-conformities.

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3. ~~A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements of this Section shall apply as they apply to preexisting non-conformities.~~

4. ~~If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.~~

   a. ~~In accordance with Whitman County Code 19.54, when a non-conforming use is discontinued for a period of six months or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.~~

   b. ~~In accordance with Whitman County Code 19.54, if said non-conforming use is a single family dwelling which is discontinued for a period of six months or longer, it shall not be subject to the restrictions of the zone classification if the lapse in use is occasioned by the good faith, continuing effort to sell said building for use as a single family dwelling.~~

~~C.~~D. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment and all uses of the non-conforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, Environmental Health Department's requirements for drainfield and replacement drainfield and lot coverage requirements to the greatest extent feasible.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Reductions of other setbacks should be considered first before reducing the buffer from the OHWM. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

~~D.~~E. Alteration, Expansion, or Restoration of Non-conforming Uses and Structures

1. Alteration, expansion, or restoration of non-conforming structures and uses are not allowed except as set forth in this Master Program and in Whitman County Code 19.54.040.

2. In accordance with WCC 19.54.040, should a structure be destroyed by any means to an extent of more than 75% of its actual value based on the assessed valuation placed upon it at the time of its destruction, the use of said structure and the lot upon which it is located shall thereafter conform to all requirements of the use district within which they are located and with all requirements of this SMP.

3. Any non-conforming structure which is moved any distance must be brought into conformance with this Master Program and the SMA.

4. A structure for which a variance has been issued shall be considered a legal non-conforming structure, and the requirements of this Section shall apply as they apply to pre-existing non-conforming structures and uses.

5. Legally existing structures used for a conforming use but which are non-conforming with regard to setbacks, buffers, or yards; area; bulk; height or density:

   a. May be maintained and repaired; and

b. May be enlarged or expanded, provided that said enlargement does not increase the extent of non-conformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses; and

c. May be enlarged or expanded to increase the extent of non-conformity only by obtaining a Shoreline Variance per Subsection 19.63.306(H).

6. Alteration or expansion of a non-conforming use or structure is allowed with a Shoreline Variance if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

## 19.63.308 DEBRIS ACCUMULATION AND OBSTRUCTION

1. Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, and Chapter RCW 90.58, the followingactivities shall be prohibited in shoreline jurisdiction:

   a. The outside storage within the shoreline jurisdiction of abandoned, discarded or unused objects or equipment, excluding operational farm-related equipment or material; including but notlimited to tires, household furniture, stoves, refrigerators and freezers.

   b. The outside accumulation within the shoreline jurisdiction of two or more cubic yards of waste, rubbish and trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded or unused material, unless kept in covered bins or receptacles.

   c. The presence of any unattached vehicle or boat parts and/or abandoned or inoperable vehicles and/or boats that have remained in the same location or on the same contiguously owned property for more than sixty consecutive days.

   d. Alteration waterward of the OHWM without applicable permits. An

   e. act, or omitting to perform a duty, which act or omission either:

      1. Annoys, injures or endangers the comfort, repose, health or safety of others;

      2. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or

      3. In any way renders other persons insecure in life, or in the use of property.

2. Enforcement of the provisions in Subsection (1) shall be as follows:

   a. Activities that are criminal or that pose a safety concern shall be enforced by the Whitman County Sheriff's Department.

   b. Activities that fail to meet fire code shall be enforced by the Whitman County Building Inspector.

   c. All other activities shall be enforced by the SMP Administrator.

## 19.63.309 AMENDMENT OF SHORELINE MASTER PROGRAM

A. Purpose of Amendment.

This SMP carries out the policies of the Shoreline Management Act for Whitman County. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and

2. Assure consistency of this SMP with the County's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date.

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This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

C. Amendment Process.

1. The SMP may be amended annually or more frequently as needed pursuant to WAC 173-26-090 (Periodic Review). Future amendments to this SMP may be initiated per WCC 19.04.020.
2. Applications for SMP amendments shall be submitted as specified in the WCC 19.04.030.
3. The County shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100 and the Whitman County Code.
4. Proposals for amendment of this SMP shall be heard by the Planning Commission consistent with WCC 19.04.050.
5. Prior to approval, the County shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):
    a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or
    b. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and
    c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).
6. After approval or disapproval of an SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the County shall publish a notice that the SMP amendment has been approved or disapproved by Ecology pursuant to the notice publication requirements of RCW 36.70A.290.

# 19.63.400 Shoreline Vision and Goals

## 19.63.401 SHORELINE VISION

It shall be the ultimate goal of the Whitman County SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of Whitman County regarding the balanced use of the county shorelines.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

## 19.63.402 SHORELINE GOALS

A. Shoreline Use

1. Consider agriculture as a water-related use and key economic factor in Whitman County. Other shoreline uses should not compromise agricultural production on designated agricultural lands.
2. Promote the best use of Whitman County shorelines through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.
3. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the County as well as the shoreline environments, habitat, and ecological systems.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of Whitman County's shorelines. Shoreline economic growth and prosperity should take into account the existing rural character of the County.
2. Permit those commercial, industrial, recreational, and other developments that require a location along the shoreline and which may contribute to the economic well-being of Whitman County while achieving no net loss of ecological function.
3. Recognize the value of Port of Whitman County operations to existing and potential economic development opportunities along the County's shorelines.
4. Promote new water-dependent, water-related, and water-enjoyment economic development, with preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of Whitman County's shorelines.
2. Ensure an adequate supply of safe public access to Whitman County's shoreline.
3. Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

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D. Recreation

1. Protect and expand opportunities for recreation in Whitman County's shoreline areas, including but not limited to parks and other recreational areas.
2. Encourage and maximize water-oriented recreational opportunities along the shoreline.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.
2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.
3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in Whitman County's shorelines.
2. Maintain adequate safety, environmental, and aesthetic standards for existing and new transportation systems within shoreline jurisdiction.
3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.
2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

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

I. Flood Hazard Management

Protect Whitman County from losses and damage created by flooding along the shoreline.

# 19.63.500 Shoreline Jurisdiction and Environment Designations

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## 19.63.501 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. In Whitman County, the following waterbodies have been determined to meet the minimum requirements for designation as shorelines:

Table 19.63.501-1 List of Shorelines of the State

| Rivers and Streams | Lakes |
|---|---|
| Cottonwood Creek | Alkali Lake |
| Fourmile Creek | Bonnie Lake |
| Latah Creek (Hangman Creek) | Crooked Knee Lake |
| Palouse River – Mainstem * | Duck Lake |
| Palouse River – North Fork * | Folsom Lake |
| Palouse River – South Fork | Lavista Lake |
| Pine Creek * | Rock Lake * |
| Rock Creek * | Sheep Lake |
| Snake River * | Snyder Slough |
| Union Flat Creek * | Stevens Lake |
| | Texas Lake |
| | Tule Lake |

* All or portions of these waterbodies also meet criteria for Shorelines of Statewide Significance. See Section 19.63.502

2. Shorelands, as adopted by Whitman County and indicated on the Official Shoreline Maps available for review in the Planning Department, are defined as:

   *"those lands extending landward for 200 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…." (RCW 90.58.030)*

   Whitman County will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Maps available for review in the Planning Department. The purpose of the Official Shoreline Maps is to identify Environment Designations (Subsection 19.63.503 below). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall

be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

   *"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

   *In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

   *Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

   a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

   b. Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that

include and support water-dependent uses and address specific conditions that affect water-dependent uses.

c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

e. Limit nonwater-oriented uses to those locations where the above described uses areinappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

## 19.63.502 SHORELINES OF STATEWIDE SIGNIFICANCE

Shorelines of Statewide Significance are a sub-set of all shorelines of the state, and are regulated by this Master Program. In addition, the Shoreline Management Act requires that special consideration be given to Shorelines of Statewide Significance, which have particularly high mean annual flows or surface acreage as outlined in Subsection (A) below. The SMA requires that the SMP "provides the optimum implementation of the policy of [the SMA] to satisfy the statewide interest," and mandates review of proposed projects on Shorelines of Statewide Significance under the prioritized list of use preferences stated in Subsection (B) below.

A. Designation of Shorelines of Statewide Significance.

1. The following shoreline waterbodies and their associated shorelands have elevated status as Shorelines of Statewide Significance:

   a. Streams and rivers in Eastern Washington that are "…downstream of a point where the annual flow is measured at two hundred [200] cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer" (RCW 90.58.030(2)(e)(v)(B)).

   b. "Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark." (RCW 90.58.030(2)(f)(iv))

   These waterbodies have unique supplemental provisions outlined in Subsections 19.63.502(B) and (C) below.

2. In Whitman County, the following waterbodies are Shorelines of Statewide Significance.

   a. Mainstem and North Fork Palouse River,
   b. Snake River,
   c. Rock Creek,
   d. Portions of Pine and Union Flat Creeks, and
   e. Rock Lake.

B. Use Preferences

1. In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all Shorelines of Statewide Significance in the County, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order that are consistent with the statewide interest in Whitman County's shorelines. These are uses that:

   a. Recognize and protect the statewide interest over local interest;
   b. Preserve the natural character of the shoreline;
   c. Result in long term over short term benefit;
   d. Protect the resources and ecology of the shoreline;

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e. Increase public access to publicly owned areas of the shorelines;
f. Increase recreational opportunities for the public in the shoreline;
g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))

2. Uses that are not consistent with these preferences should not be permitted on Shorelines of Statewide Significance.

C. Policies.

Consistent with the use preferences for Shorelines of Statewide Significance contained in RCW 90.58.020 and identified in Subsection (B) of this Section, the County will base decisions administering this SMP on the following policies in order of decreasing priority:

1. Recognize and protect the state-wide interest over local interest.
   a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to this Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments', citizen's advisory committees and local officials, and state-wide interest groups.
   b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
2. Preserve the natural character of the shoreline.
   a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.
   b. Encourage restoration, enhancement, and/or redevelopment of those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.
   c. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.
   d. Protect and restore habitats for State-listed "priority species."
3. Support actions that result in long-term benefits over short-term benefits.
   a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.
   b. Preserve resources and values of Shorelines of Statewide Significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.
   c. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats and unique environments.
4. Protect the resources and ecology of the shoreline.
   a. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 19.63.603 (Environmental Protection) to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.
   b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or general enhancement of shoreline areas.
5. Increase public access to publicly owned areas of the shoreline.
   a. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation

resource.

b. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.

c. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.

6. Increase recreational opportunities for the public on the shoreline.

a. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water-oriented activities.

b. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

## 19.63.503 SHORELINE ENVIRONMENT DESIGNATIONS

A. Aquatic

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

2. Designation criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management policies:

a. Allow new over-water structures only for water-dependent uses, including docks associated with single-family residences, public access, or ecological restoration.

b. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

d. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

e. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

B. Rural Conservancy

1. Purpose: The purpose of assigning an area to a Rural Conservancy environment designation is to promote agricultural use and activities, including associated irrigation and support facilities, and accommodate low-density rural home sites, function as a separation between urban areas, and maintain an open space character and provide opportunities for recreational uses compatible with agricultural activities.

2. Designation criteria: Assign a Rural Conservancy environment designation to those areas characterized by:

a. Agricultural lands of long-term commercial significance and low-density rural home sites;

b. Commercial agricultural potential; or

c. Parallel roads, railroads, canals, levees or other alterations in shoreline jurisdiction that limit shoreline ecological functions.

3. Management policies:

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a. Promote agricultural activities on agricultural lands.
b. Allow new agricultural activities and expansions of current agricultural activities on previously un-farmed lands consistent with this SMP.
c. Non-agricultural uses should be limited to those compatible with agriculture. Shoreline development within or adjacent to designated agricultural resource lands should incorporate measures to reduce compatibility impacts, such as open space landscaped separations or other measures to address impacts to agricultural operations.
d. Development standards should seek to conserve soils and water resources suitable for agricultural purposes.
e. Activities and uses should be designed for compatibility with the rural character, including the overall density pattern.

C. Shoreline Parks

1. Purpose: The purpose of the Shoreline Parks environment is to:

a. Protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and
b. Ensure appropriate management and development of existing and future public parks and recreation areas.

2. Designation criteria: Assign a Shoreline Parks environment designation if any of the following characteristics apply:

a. They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;
b. They are suitable for water-related or water-enjoyment uses;
c. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
d. They have potential for ecological restoration;
e. They retain important ecological functions, even though partially developed; or
f. They have the potential for development that is compatible with ecological restoration.

3. Management policies:

a. Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a non-permanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
b. Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.
c. Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.
d. Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
e. Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.
f. Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.
g. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure, infrastructure or

ecological functions, and only when mitigation is applied if necessary to maintain ecological function.

D. Rural Industrial/Port

1. Purpose: The purpose of the Rural Industrial/Port environment designation is to provide for intensive water-oriented commercial, transportation, power production, and industrial uses, while protecting existing ecological functions. This designation will provide the opportunity for the development, redevelopment and infill of existing rural industrial and commercial developments or former industrial or commercial sites consistent with the rural character of Whitman County.
2. Designation criteria: Assign a Rural Industrial/Port environment designation to shoreline areas in industrial or commercial areas of intensive rural development if they currently support concentrations of commerce, transportation, power production, or navigation; or are suitable and planned for intensive water-oriented uses.
3. Management policies:
    a. In regulating uses in the Rural Industrial/Port environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
    b. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
    c. Public access should be required on public lands. Private development that creates a demand for shoreline access should provide visual or physical access unless there are constitutional or legal limitations, safety, security, environment, or other similar factors that limit its feasibility.
    d. Full utilization of existing industrial areas and altered lands should be achieved before further expansion of intensive development is allowed.

E. Environment Designation Interpretation

1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:
    a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
    b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.
    c. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.
    d. Boundaries indicated as approximately parallel to or extensions of features indicated in (a), (b), or (c) above shall be so construed.
2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Section 19.63.300 (Administration and Permitting) and the County's appeal procedures in Section 19.06.052. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP

amendment may be obtained consistent with WAC 173-26-100 and Section 19.63.309 (Amendment of Shoreline Master Program).

3. All shoreline areas waterward of the OHWM shall be designated Aquatic.
4. Upland environment designations shall apply to shorelands.
5. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: "boundary is 100 feet upland from the OHWM").

F. Official Shoreline Maps and Unmapped or Undesignated Shorelines

1. The Official Shoreline Maps at the time of SMP adoption, which illustrate the delineation of shoreline jurisdiction and environment designations in the County, are available for review in the Planning Department. The Official Shoreline Maps shall include the following language: "We hereby certify that this map constitutes the Official Shoreline Map as approved by Ordinance #077123 of the Board of County Commissioners and signed by its chair dated this 16th day of November, 2015." The Official Shoreline Maps may be updated administratively or through an SMP amendment as indicated in Subsections (G)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, an SMP amendment shall be completed within three years of finding the mapping error.
2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned a Rural Conservancy designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.
3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned a Rural Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 19.63.309 (Amendment of Shoreline Master Program).
4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.
5. In addition, any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associate wetlands, for example, may be developed at the site-specific scale and site conditions may change over time. Revisions to the Official Shoreline Maps may be made as outlined in this Subsection (G)(5) without an SMP amendment.

# 19.63.600 General Policies and Regulations

## 19.63.601 INTRODUCTION

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

## 19.63.302 SHORELINE USE AND DEVELOPMENT REGULATIONS

A. Policies

1. Protect current agricultural uses on agricultural land. Provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.
2. Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.
3. Encourage shoreline activities and water-oriented uses within the Port of Whitman County properties that minimize significant adverse impacts to the shoreline environment.
4. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. Those developments within the Port of Whitman County properties shall reflect the overall goals for development of the Ports, as laid out in the Port of Whitman County Comprehensive Plan and the Whitman County zoning ordinance.
5. Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.
6. The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.
7. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological, economic and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

B. Regulations

1. All uses in the shoreline shall comply with the County's development code and this Program.
2. The shoreline use and modification table defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be allowed with a Shoreline Conditional Use Permit if they are otherwise allowed by County code; other unclassified uses are prohibited.
3. All structures in the shoreline shall be designed and constructed consistent with the underlying zoning.

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4. To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).
5. Where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.
6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

## 19.63.603 ENVIRONMENTAL PROTECTION

A. Policies

1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.
2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the County's environmental resources (air, ground and surface waters, and indigenous biology).
3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of County residents.

B. Regulations

1. Ecological functions. Uses and developments on Whitman County shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.
2. Protection of critical areas and buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of SMP Section 19.63.700, Shoreline Critical Areas Policies and Regulations.
3. Mitigation requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 19.63.603(B)(4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 19.63.603(B)(4):
    a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or
    b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or
    c. When specifically required by regulations contained in this SMP.
4. Mitigation sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 19.63.603(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

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a. Avoid the impact altogether by not taking a certain action or parts of an action;
b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:
   a. Removal of native plant communities in shoreline jurisdiction,
   b. Removal of native or non-native trees that overhang the water,
   c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,
   d. Removal or alteration of priority habitats or habitat for priority species,
   e. Construction of new or expanded in- and over-water structures,
   f. Construction of new or expanded shoreline stabilizations,
   g. New discharges of water into shoreline waters that may introduce pollutants,
   h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or
   i. Changes in grading or fill that reduce floodplain capacity.
6. Mitigation plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by Whitman County, but may be voluntarily performed by an applicant. In addition to any requirements found in Section 19.63.700 (Shoreline Critical Areas Policies and Regulations) a mitigation plan must include:
   a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
   b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
   c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
   d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;
   e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;
   f. A contingency plan if mitigation fails to meet established success criteria; and
   g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.
7. Alternative mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the

ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include in-lieu-fee, advance mitigation, and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

## 19.63.604 SHORELINE VEGETATION CONSERVATION

A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.
2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.
2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas within shoreline jurisdiction must be managed consistent with Section 19.63.700 (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Section 19.63.703 (Fish and Wildlife Habitat Conservation Areas).
3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 19.63.603 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Whitman County Code.
4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Whitman County Code. Mitigation sequencing per Subsection 19.63.603(B)(4) (Environmental Protection) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The County may approve modifications or require minor site plan alterations to achieve maximum tree retention.
5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:
    a. Removal of native trees, shrubs or groundcovers;
    b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or
    c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

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Mitigation plans must be prepared by a qualified professional and must contain information required in Subsection 19.63.603(B)(6). Mitigation measures must be maintained over the life of the use or development.

6. Shoreline vegetation may be removed to accommodate a temporary staging area when necessary to implement an allowed use or modification, but mitigation sequencing must be utilized and the area must be immediately stabilized and restored with native vegetation once its use as a staging area is complete.

7. Tree removal in shoreline jurisdiction, outside of critical areas and their buffers, must be mitigated by installation of a similar tree at a minimum 1:1 impact to mitigation ratio. All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas, and shall be held to a 100% survival standard at the end of three years.

8. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

9. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

10. Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is encouraged.

11. Mechanical removal or large-scale chemical treatment of invasive species.

    a. Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is encouraged.

    b. Coordination with the applicable local conservation district is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.

    c. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

    d. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

12. Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

## 19.63.605 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

A. Policies

1. Maintain and improve the water quality and quantity of the County's shorelines and preserve surface and groundwater for the beneficial use of the County's citizens and wildlife over the long term.

2. Prevent impacts to water quality and surface water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational

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opportunities.

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

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B. Regulations

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1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions. All new uses and developments shall comply with the Environmental Protection regulations in Section 4.3(B).
2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.
3. Requirements for new development.
    a. New development and re-development shall manage short-term and long-term stormwaterrunoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the latest County-adopted edition of the Stormwater Management Manual for Eastern Washington (2004) or approved equivalent. If certain thresholds are not met by a development that trigger compliance with the Stormwater Management Manual or approved equivalent, best management practices (BMPs) must still be employed to avoid and minimize potential adverse effects.
    b. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.
4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.
5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.
6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

## 19.63.606 FLOOD HAZARD MANAGEMENT

A. Policies

1. Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures (e.g., levees) except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

2. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

3. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 19.63.707 (Frequently Flooded Areas) as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review in the Planning Department. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

3. The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 19.63.707 (Frequently Flooded Areas):

   a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

   b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

   c. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

   d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs[1]. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

   e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated thatthe erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

   f. Water-dependent installations which by their very nature must be in the floodway.

   g. Modifications or additions to an existing nonagricultural legal use, provided that channel

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migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.

h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

i. Uses and developments allowed in the floodway under Section 19.63.707 (Frequently Flooded Areas) provided they are otherwise consistent with all provisions of Section 19.63.700 (Shoreline Critical Areas Policies and Regulations) and other requirements of this SMP.

4. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside ofthe floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMPAdministrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice forADA standards]

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

6. New public and private structural flood hazard reduction measures:

   a. Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

      i. That they are necessary to protect existing development;

      ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

      iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

      iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

      v. That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

      vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

   b. Shall be consistent with an approved comprehensive flood hazard management plan.

   c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents

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governing County-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 19.63.903 (Dredging and Dredge Material Disposal) and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## 19.63.607 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

A. Policies

1. Continue to regulate archaeological, historic, and cultural resources.
2. Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.
3. Consultation with professional archaeologists and historians is encouraged to identify areas containing potentially valuable archaeological data.

B. Regulations

1. Permits issued in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:
   a. If any of the following are met, the project will be exempt from taking action:
      i. Prior negative archaeological survey is on file
      ii. No ground disturbance will occur
      iii. The project is in 100 percent culturally-sterile fill
   b. If no known cultural resources are present, the Department of Archaeology and Historic Preservation Predictive Model shall be applied and the survey recommendations shall be followed according to the associated risk identified.
   c. If cultural resources are present and ground-disturbance is proposed, then a site inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes prior to initiating disturbance. The resource shall be avoided or a mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant.
2. In accordance with state law:
   a. In the event that human remains, burials, funeral items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.
   b. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53.060 shall be adhered to.

## 19.63.608 PUBLIC ACCESS

A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
2. Protect the rights of navigation and space necessary for water-dependent uses.
3. Consistent with the overall best interest of the state and the people of Whitman County, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views.
4. Recognize that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.
5. Regulate the design, construction, and operation of permitted uses in the County's shoreline jurisdiction to reduce interference with the public's use of the water.
6. Recognize and facilitate implementation of existing County parks, recreation, and open space plans.
7. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals identified in any County or local parks, recreation, and/or open space plans.

B. Regulations

1. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.
2. In compliance with RCW 36.87.130, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.
3. Existing public access shall not be eliminated unless the Applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.
4. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
    a. The development is proposed by a public entity or on public lands;
    b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;
    c. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or
    d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.
5. An applicant shall not be required to provide public access where the County determines that one or more of the following conditions apply:
    a. Proposed use, activity or development only involves the construction of multifamily dwellings or a subdivision of single-family residential with four or fewer lots;
    b. The proposed use, activity or development only involves agricultural activities;
    c. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall

carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

d. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

e. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development;

f. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

g. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

6. Public access locations shall be clearly marked and available to the public.

7. The County may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

8. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

9. Shared community access may be allowed if there is no existing or planned public access along the shoreline as determined by a review of adopted parks and recreation plans. Where provided, community access is subject to all applicable development standards of this Section. Preference shall be given for consolidated community access over individual lot-by-lot access in new multi-lot or multi-unit development.

10. Where public access is required pursuant to Subsection (4) and not exempt through Subsection (5) of this Section, an applicant may request that the public access requirement be fulfilled through developing public access on another site.

    a. Off-site public access, either physical or visual, may be permitted by the County where it results in an equal or greater public benefit than on-site public access, or when on-site limitations of security, environment or feasibility are present.

    b. Off-site public access is preferred where it implements adopted County shoreline public access plans.

    c. Off-site public access may include, but is not limited to, enhancing a nearby public property (e.g. existing public recreation site; existing public access; road, street or alley abutting a body of water; or similar) in accordance with County standards; providing, improving or enhancing public access on another property under the control of the Applicant/proponent; or another equivalent measure.

11. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

### 19.63.609 UNCLASSIFIED USES

Uses that are not classified or set forth herein are allowed with a Shoreline Conditional Use Permit if they are otherwise allowed by Whitman County zoning regulations; other unclassified uses are prohibited.

### 19.63.610 SHORELINE USE AND MODIFICATION TABLE

The following table shall be used to determine which new uses or modifications may be permitted or prohibited in each shoreline environment designation. All existing, legal uses and modifications may continue regardless of whether they would be allowed as a new use or modification according to this SMP. Refer to the text section of this Program for all applicable provisions related to specific uses and development standards.

Table 19.63.612-1 Use and Modification Table

| Shoreline Use or Modification | Rural Conservancy | Shoreline Parks | Rural Industrial/ Port | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| **Agriculture** | | | | |
| Existing Agricultural Activities | Not regulated under this SMP. | | | |
| New Agricultural Activities | P | P | P | N/A |
| Commercial Dairying, Poultry Raising, Pig Farming, Animal Feedlots and Stockyards | X | X | X | N/A |
| Agricultural Stands | P | P | P | N/A |
| Agricultural Related Industries | C | X | P | N/A |
| Agri-tourism | P | P | P | N/A |
| **Aquaculture** | | | | |
| Commercial | X | X | X | X |
| Non-commercial | P | P | P | P |
| **Boating Facilities** | | | | |
| Boat Launches | | | | |
| Public | P | P | P | See adjacent upland designation |
| Commercial/Industrial | C | X | P | See adjacent upland designation |
| Other private | C | X | P | See adjacent upland designation |
| Pier/Dock | | | | |
| Residential, including community | P | X | X | See adjacent upland designation[3] |
| Commercial, industrial | C | P | P | See adjacent upland designation |
| Recreational or public access use | P | P | P | See adjacent upland designation |
| **Breakwaters, Jetties, Weirs and Groins** | | | | |
| To protect or restore ecological functions | P | P | P | P |
| All other purposes | C | C | C | See adjacent upland designation |
| **Commercial Development** | | | | |
| Visitor-serving uses | P | P | P | P |

| Shoreline Use or Modification | Rural Conservancy | Shoreline Parks | Rural Industrial/ Port | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| Recreation concessions | P | P | P | P |
| Other, water-dependent | P | P | P | P |
| Other, nonwater-dependent | | | | |
| General | X | C | C | C |
| Sites separated from Shoreline[1] | P | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | P | P | P | P |
| **Dredging and Dredge Material Disposal** | | | | |
| Dredging for water-dependent use, navigation, and public access | N/A | N/A | N/A | P |
| Dredging or disposal of dredged material for habitat restoration | P | P | P | P |
| Dredging, other | N/A | N/A | N/A | C |
| Disposal of dredged material [2] | P | P | P | See adjacent upland designation |
| Implementation of dredging maintenance plan | N/A | N/A | N/A | P |
| **Fill and Excavation** | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | N/A |
| **Flood Hazard Management** | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P |
| New Facilities | P | P | P | See adjacent upland designation |
| **Forest Practices** | | | | |
| Forest Practices | P | X | X | N/A |
| **Ports and Industrial Development** | | | | |
| Water-Oriented | | | | |
| Snake River | C | X | P | C |
| All Other Waterbodies | X | X | P | C |
| Nonwater-Oriented | | | | |
| General | X | X | P | X |
| Solid waste disposal/landfill | X | X | C | X |
| Sites separated from Shoreline[1] | P | X | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | P | X | P | C |

| Shoreline Use or Modification | Rural Conservancy | Shoreline Parks | Rural Industrial/ Port | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| **In-Stream Structures** | | | | |
| To protect public facilities | P | P | P | See adjacent upland designation |
| To protect, restore, or monitor ecological functions or processes | P | P | P | P |
| To support agriculture | P | P | P | P |
| Other | C | C | P | See adjacent upland designation |
| **Mining** | | | | |
| Extraction | C | X | P | C |
| Processing Facilities | C | X | P | X |
| **Recreational Development** | | | | |
| Water-Oriented | P | P | P | P |
| Nonwater-Oriented | | | | |
| General | C | C | C | X |
| Sites separated from shoreline[1] | P | P | P | N/A |
| **Redevelopment, Repair, and Maintenance** | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P |
| **Residential Development** | | | | |
| Single-Family Dwelling | | | | |
| Primary | P[4] | X | X | X |
| Accessory Unit (on-site management housing) | P[4] | P | P | X |
| Multi-Family Dwelling | X | X | X | X |
| **Shoreline Restoration and Enhancement** | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P |
| **Shoreline Stabilization** | | | | |
| New Stabilization | P | P | P | P |
| **Transportation and Parking** | | | | |
| Expansion of Existing Transportation and Parking Facilities | P | P | P | C |
| New Access Roads Serving Permitted Uses | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | C | C | P | N/A |
| New Bridges | P | C | P | C |

| Shoreline Use or Modification | Rural Conservancy | Shoreline Parks | Rural Industrial/ Port | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| New Railways | C | C | P | C |
| New Airstrips | C | X | P | N/A |
| New Trails | P | P | P | N/A |
| New Parking to Support Authorized Use[5] | P | P | P | N/A |
| **Utilities** | | | | |
| Expansion of Existing Utilities | P | P | P | C |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | P | P | P | C |
| New Power Generating Facilities | C | C | C | C |
| New Utility Transmission Lines | P | P | P | C |
| New Utility Services, General | P | P | P | C |
| New Wastewater Treatment Facility | C | C | P | C |

[1] "Sites separated from shoreline" refers to those sites that are physically separated from the shoreline by another property or a public right of way.
[2] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.
[3] Residential and community docks are not permitted in the Snake River or other shoreline streams and rivers in Whitman County, unless authorized by applicable state and federal agencies.
[4] For all new residential development in the Rural Conservancy environment, lot coverage within shoreline jurisdiction is limited to a maximum of ten percent total impervious surface area within the lot or parcel in order to maintain the existing hydrologic character of the shoreline.
[5] Primary parking prohibited in all designations per WAC 126-26-241(3)(k)).

## 19.63.611 SHORELINE DEVELOPMENT STANDARDS

A. There shall be a 35-foot maximum building height for all structures, except that utility facilities and bridges are not required to meet this standard. To exceed 35 feet, an applicant must comply with the following criteria:

   1. Demonstrate overriding considerations of the public interest will be served; and
   2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

   Water-oriented structures shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, as well as accessory features such as lighting required for operations. All other

structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 19.63.306(H)).

B. Minimum shoreline lot frontage shall be consistent with underlying zoning identified in Title 19 of the Whitman County Code.

C. Minimum structure setbacks from side property lines in shoreline jurisdiction shall be consistent with the underlying zoning and no less than 5 feet.

D. Shoreline buffers: See Section 19.63.700 (Shoreline Critical Areas Policies and Regulations).

# 19.63.700 Shoreline Critical Areas Policies and Regulations

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## 19.63.701 POLICIES

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 19.63.702 GENERAL REGULATIONS

A. Purpose

1. The purpose of this Section is to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction, and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

2. The purpose of this Section is to implement the goals, policies, guidelines, and requirements of the Whitman County Comprehensive Plan, the Shoreline Management Act, and the Growth Management Act.

3. The County finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the County and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of flood waters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation.

4. Goals. By limiting development and alteration of critical areas, this Section seeks to:

   a. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, effects from volcanic eruptions, or flooding;

   b. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;

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c. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and

d. Prevent cumulative adverse environmental impacts to water quality, wetlands, fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

5. The regulations of this Section are intended to protect critical areas in accordance with the Shoreline Management Act through the application of the most current, accurate, and complete scientific and technical information available, and in consultation with state and federal agencies and other qualified professionals.

6. This Section is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Section to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

7. The County's enactment or enforcement of this Section shall not be construed for the benefit of any individual person or group of persons other than the general public.

B. Relationship to Other Regulations

1. These critical areas regulations shall apply as an overlay in shoreline jurisdiction and in addition to zoning and other regulations adopted by the County.

2. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this Section or any existing regulation, easement, covenant, or deed restriction conflicts with this Section, that which provides more protection to the critical areas shall apply.

3. Compliance with the provisions of this Section does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development permits, Floodplain Development permits, Hydraulic Project Approval (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, State Section 401 Water Quality Certifications or Administrative Orders, and National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this Section.

4. Whitman County has opted in to the Voluntary Stewardship Program (VSP) pursuant to RCW 36.70A.700-760. Agricultural activities in and around critical areas will be addressed through the County's implementation of the VSP, once adopted. However, compliance with the VSP does not constitute compliance with other federal, state, and local regulations and permit requirements as described above in Subsection (B)(3) of this Section.

C. Jurisdiction of Critical Areas

1. The County shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas within shoreline jurisdiction, consistent with the most current, accurate, and complete scientific and technical information available and the provisions herein.

2. Critical areas regulated by this section include:

a. Wetlands as designated in Wetlands, Section 19.63.703 (Wetlands);
b. Fish and wildlife habitat conservation areas as designated in Fish and Wildlife Habitat Conservation Areas, Section 19.63.704 (Fish and Wildlife Habitat Conservation Areas);
c. Critical aquifer recharge areas as designated in Critical Aquifer Recharge Areas, Section 19.63.705;

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d. Geologically hazardous areas as designated in Geologically Hazardous Areas, Section 19.63.706; and

e. Frequently flooded areas as designated in Frequently Flooded Areas, Section 19.63.707.

3. All areas within the County's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section.

D. Protection of Critical Areas

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, Subsection 19.63.603(B)(4) to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

E. Activities Allowed without Critical Areas Documentation

1. Critical area report. Activities allowed under this Section shall have been reviewed and permitted or approved by the County or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The SMP Administrator may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this Section to protect critical areas.

2. Required use of best management practices. All allowed activities shall be conducted using best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The County shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

3. Allowed activities. The following activities are allowed:

a. Shoreline permit requests subsequent to previous critical area review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

i. The provisions of this Section have been previously addressed as part of another approval;

ii. There have been no material changes in the potential impact to the critical area or buffer since the prior review;

iii. There is no new information available that is applicable to any critical area review of the site or particular critical area;

iv. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and

v. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.

b. Operation, maintenance, or repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems,

if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species.

c. Modification to existing structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one (1) year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion.

d. Activities within the improved right-of-way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a County authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:

   i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and

   ii. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.

e. Minor utility projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the SMP Administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s), provided that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Utilities crossing under or over streams may require an HPA from the Washington Department of Fish and Wildlife. Such allowed minor utility projects shall meet the following criteria:

   i. There is no practical alternative to the proposed activity with less impact on critical areas;

   ii. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and

   iii. The activity involves disturbance of an area less than 75 square feet.

f. Public and private pedestrian trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

   i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

   ii. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

g. Select vegetation removal activities. The following vegetation removal activities, provided that no vegetation shall be removed from a critical area or its buffer without approval from the SMP Administrator:

   i. The removal of invasive and noxious weeds as listed by the Whitman County Weed Department with hand labor and light equipment;

   ii. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property, provided that:

      a) The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule

for the replacement trees;

b) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;

c) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;

d) The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one (1) year in accordance with an approved restoration plan. Replacement trees may be planted at a different nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one (1) inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six (6) feet in height for evergreen trees as measured from the top of the root ball;

e) If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and

f) Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the County provided that within fourteen (14) days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this Chapter.

iii. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act; Chapter 76.09 RCW, provided that the removed vegetation shall be replaced in-kind or with similar native species within one (1) year in accordance with an approved restoration plan; and

iv. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

h. Chemical applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the County, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency.

i. Minor site investigative work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

j. Agricultural ditch cleaning and construction. Historically, agricultural landowners have cleaned out drainages on their property for flood control and cleaning out drain tiles. This practice can continue on existing (prior to December 23, 1985) ditches, but a floodplain evaluation is requiredif a floodplain is present and a wetland evaluation is required if a wetland (not farmed) is present. Construction of new drainage ditches or the relocation of existing drainage ditches through farmed or non-farmed wetlands requires permitting.

F. General Requirements

1. As part of this review, the County shall:

a. Verify the information submitted by the applicant;

b. Evaluate the project area and vicinity for critical areas;

c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

2. If the proposed project is within, adjacent to, or is likely to impact a critical area, the County shall:

   a. Require a critical area report from the applicant that has been prepared by a qualified professional;

   b. Review and evaluate the critical area report;

   c. Determine whether the development proposal conforms to the purposes and performance standards of this Section, including the criteria in Review Criteria, Subsection 19.63.702(O);

   d. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and

   e. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this Section.

G. Critical Area Pre-application Consultation

Any person preparing to submit an application for development or use of land in shoreline jurisdiction that may be regulated by the provisions of this Section shall conduct a consultation meeting with the SMP Administrator prior to submitting an application for development or other approval. At this meeting, the SMP Administrator shall discuss the requirements of this Section; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

H. Critical Area Identification Form

1. Submittal. Prior to the County's consideration of any proposed activity not found to be allowed pursuant to Allowed Activities (Subsection 19.60.702(E), the applicant shall submit a complete critical area identification form on forms provided by the County.

2. Site inspection. Upon receipt of a project application and a critical area identification form, the SMP Administrator shall, if he/she deems necessary, conduct a site inspection to review critical area conditions on site. The SMP Administrator shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

3. Critical area identification form review process.

   a. The SMP Administrator, or his/her designee, shall review the critical area identification form, conduct a site inspection if necessary, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

   b. Decision indicators. The SMP Administrator may use the following indicators to assist in determining the need for a critical area report:

      i. Indication of a critical area on the County critical areas maps that may be impacted by the proposed activity;

      ii. Information and scientific opinions from appropriate agencies, including but not limited to the Washington Departments of Fish and Wildlife, Natural Resources, and Ecology;

      iii. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area; or

      iv. A finding by a qualified professional or a reasonable belief by the SMP Administrator that a critical area may exist on or adjacent to the site of the proposed activity.

4. Decision on identification form.
    a. No critical areas present. If after a site visit and review of all pertinent data, the SMP Administrator's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the SMP Administrator shall rule that the critical area review is complete and note on the identification form the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.
    b. Critical areas present, but no impact – waiver. If the SMP Administrator determines that there are critical areas within or adjacent to the project area, but that the most current, accurate, and complete scientific and technical information available shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the SMP Administrator may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
        i. There will be no alteration of the critical area or buffer;
        ii. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this Section; and
        iii. The proposal is consistent with other applicable regulations and standards.

        A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.
    c. Critical areas may be affected by proposal. If the SMP Administrator determines that a critical area or areas may be affected by the proposal, then the SMP Administrator shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.
5. SMP Administrator's determination subject to reconsideration. A determination regarding the apparent absence of one or more critical areas by the SMP Administrator is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

I. Critical Area Report Requirements
1. Preparation by qualified professional. If required by the SMP Administrator in accordance with Subsection 19.63.702(H)(4)(c), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.
2. Incorporating of scientific and technical information. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this Section.
3. Minimum report contents. At a minimum, the report shall contain the following:
    a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
    b. A copy of the site plan for the development proposal including:
        i. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
        ii. In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;
    c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

d. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;
e. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
f. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
g. An analysis of site development alternatives including a no development alternative;
h. A description of reasonable efforts made to apply mitigation sequencing pursuant to Mitigation Sequencing Subsection 19.63.603(B)(4) to avoid, minimize, and mitigate impacts to critical areas;
i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements Subsection 19.63.702(K), including, but not limited to:
    i. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
    ii. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.
j. A discussion of the performance standards applicable to the critical area and proposed activity;
k. Any additional information required for the critical area as specified in the corresponding section.

4. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

J. Critical Area Report – Mitigation Requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.
2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.
3. Mitigation shall not be implemented until after County approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

K. Mitigation Plan Requirements

When mitigation is required, the applicant shall submit for approval by the County a mitigation plan as part of the critical area report. The mitigation plan shall include:

1. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
    a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
    b. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
    c. An analysis of the likelihood of success of the compensation project.
2. Performance standards. The mitigation plan shall include measurable specific criteria for

evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

3. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:
   a. The proposed construction sequence, timing, and duration;
   b. Grading and excavation details;
   c. Erosion and sediment control features;
   d. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
   e. Measures to protect and maintain plants until established.

   These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.
4. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
5. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

L. Innovative Mitigation

1. The County may encourage, facilitate, and approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:
   a. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
   b. The group demonstrates the organizational and fiscal capability to act cooperatively;
   c. The group demonstrates that long-term management of the habitat area will be provided; and
   d. There is a clear potential for success of the proposed mitigation at the identified mitigation site.
2. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

M. Determination

The SMP Administrator shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this Section. The SMP Administrator's determination shall be based on the criteria of Review Criteria, Subsection (N) of this Section.

N. Review Criteria

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed

and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. The proposal minimizes the impact on critical areas in accordance with the mitigation sequencing requirements in Subsection 19.63.603(B)(4);
b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
c. The proposal is consistent with the general purposes of this Section and the public interest;
d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection (J) of this Section;
e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and
f. The proposal is consistent with other applicable regulations and standards.

2. The County may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.
3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas by applying the mitigation sequence in order of preference (Subsection 19.63.603(B)(4)) shall be denied.

O. Favorable Determination

If the SMP Administrator determines that the proposed activity meets the criteria in Review Criteria, Subsection (N) of this Section and complies with the applicable provisions of this Section, the SMP Administrator shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the County's review of the proposed activity in accordance with any other applicable codes or regulations.

Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the SMP Administrator.

A favorable determination should not be construed as endorsement or approval of any underlying permit or approval.

P. Unfavorable Determination

If the SMP Administrator determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in Review Criteria, Subsection 19.63.702(N) and the provisions of this Section, the SMP Administrator shall prepare written notice of the determination that includes findings of noncompliance.

No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this Section.

Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this Section, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the SMP Administrator may reopen the critical area review and make a new determination based on the revised report.

Q. Completion of the Critical Area Review

The County's administrative determination regarding critical areas pursuant to this Section shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

R. Appeals

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this Section may be appealed to the Board of Adjustment according to the provisions set out in Whitman County Code Chapter 19.06.

S. Variances

Variances from the standards of this Section may be authorized by the County in accordance with the procedures set forth in Subsection 19.63.306(H) (Shoreline Variance) of this Master Program.

T. Unauthorized Critical Area Alterations and Enforcement

1. Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 19.63.304 (Enforcement, Violations, and Penalties) and the following:
2. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The County shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.
3. Requirement for restoration plan. All development work shall remain stopped until a restoration plan is prepared by the applicant and approved by the County. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 4 below. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
4. Minimum performance standards for restoration
    a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
        i. The historic structural and functional values shall be restored, including water quality and habitat functions;
        ii. The historic soil types and configuration shall be replicated;
        iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
        iv. Information demonstrating compliance with the mitigation plan requirements in Subsection (K) (Mitigation Plan Requirements), shall be submitted to the SMP Administrator.
    b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:
        i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;
        ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
        iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize

the hazard.

5. Site investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

6. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The County may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section. The civil penalty shall be assessed at a maximum rate of $300 dollars per day per violation.

## 19.63.703 WETLANDS

A. Purpose

The purposes of this Section are to:

1. Recognize and protect the beneficial functions performed by many wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging groundwater; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, absorption, and retention and transformation of sediments, nutrients and toxicants.
2. Regulate land use to avoid adverse effects on wetlands and maintain the functions and values of wetlands throughout Whitman County.
3. Establish review procedures for development proposals in and adjacent to wetlands.
4. Be consistent with the requirements of 36.70A RCW and to implement the goals and policies of this Chapter and the Whitman County Comprehensive Plan for protecting wetlands.

B. Identification and Rating

1. Identification and delineation. Wetlands shall be identified and delineated by a qualified wetland professional in accordance with WAC 173-22-035 as amended. If a wetland report is deemed necessary, it will follow the requirements in Subsection (F) of this Section. A wetland delineation should result in three things:
    a. A wetland boundary clearly marked in the field.
    b. A map that clearly identifies data collection points and the boundaries of the delineated wetland.
    c. A report that explains how the boundary was determined. It should include:
        i. A description of how and when the delineation was done;
        ii. Data forms used to delineate the wetland area;
        iii. The map described in b above; and
        iv. A soil survey map.

    A list of approved wetland professionals is available from the planning office. Wetlands means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the County's shoreline

jurisdiction meeting the wetland designation criteria in WAC 173-22-035 as amended, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section. Planning staff uses the National Wetlands Inventory (NWI) maps in the planning office as a basis to identify the location of wetlands in the County. Project proponents are responsible for determining whether a wetland area exists and is regulated pursuant to this Chapter.

Wetland reports are valid for five (5) years after which the SMP Administrator shall determine whether a revision or additional assessment is necessary.

2. Rating. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030 or as amended and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met:
   a. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.
   b. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.
   c. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
   d. Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands should be able to be replaced, and in some cases be able to be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.
3. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge.
4. The requirement for a full delineation and rating may be waived under the following circumstances:
   a. After consultation with the Department of Ecology, the SMP Administrator may waive the requirement for a wetland report if there is substantial evidence showing that there will be no alteration of the critical area or buffer due to the proposed development.
   b. If the criteria in 4a above is not met then the requirement for a wetland delineation and rating may be waived by the SMP Administrator for any construction if a qualified wetland specialist determines that:
      i. Sufficient information exists for staff to estimate the boundaries of a wetland without a delineation; and
      ii. The proposed development is not located within the buffer distances identified in Subsection (E) of this Section.

   A wetland specialist Recommendation Form shall be submitted to the Whitman County Planning

Department documenting the above exceptions, (a) and (b).

C. Regulated Activities

1. For any regulated activity, a critical areas report may be required to support the requested activity.
2. The following activities are regulated if they occur in a regulated wetland or its buffer. Ongoing agricultural activities in prior converted croplands and farmed wetlands are excluded:
   a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind. This includes routine maintenance of ditches for flood control in mapped special flood hazard areas.
   b. The dumping of, discharging of, or filling with any material.
   c. The draining, flooding, or disturbing the water level or water table.
   d. The placing of obstructions.
   e. The construction, reconstruction, demolition, or expansion of any structure.
   f. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.

D. Exemptions and Allowed Uses in Wetlands

1. All isolated Category III and IV wetlands less than 1,000 square feet that meet the following conditions are exempt from the buffer and mitigation provisions contained in this Section. In order to verify the following conditions, a critical area report must be submitted that demonstrates the wetlands:
   a. Are not associated with riparian areas or buffer;
   b. Are not part of a wetland mosaic;
   c. Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance identified in Section 19.63.704;
   d. Are not a vernal pool;
   e. Are not an alkali wetland; and
   f. Do not contain aspen stands.
2. Activities allowed in wetlands and buffers. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:
   a. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except those developments requiring local approval for Class 4 – General Forest Practice Permits (conversions) as defined in RCW 76.09 and WAC 222-12.
   b. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of existing wetland.
   c. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
   d. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater

connection to the wetland or percolation of surface water down through the soil column will be disturbed.

e. Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

f. Educational and scientific research activities.

g. Normal and routine maintenance and repair of any existing public or private building provided that the maintenance or repair does not expand the footprint of the building toward the wetland. An expansion of the building to the rear, facing away from the wetland is exempt from the buffer and mitigation provisions contained in this Chapter.

h. All ongoing agriculture activities are exempt from this Section. This includes Prior Converted Croplands (PCCs) and farmed wetlands. Only when an agricultural activity changes to a non-agricultural land use will it be subject to regulation by this ordinance.

E. Wetland Buffers

1. Buffer requirements. The buffer widths in Table 19.63.703-1 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland, the intensity of adjacent land use (as determined in Table 19.63.703-2), and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for eastern Washington.

   a. The buffer widths in Table 19.63.703-1 assume that the buffer is vegetated with a native plant community appropriate for the eco-region. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

   b. The buffer widths recommended for proposed land uses with high-intensity impacts to wetlands can be reduced to those recommended for moderate-intensity impacts under the following conditions:

      i. For wetlands that score moderate or high for habitat (5 points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:

         a) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife (The latest definitions of priority habitats and their locations are available on the WDFW web site at: http://wdfw.wa.gov/hab/phshabs.htm). The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

         b) Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 19.63.703-3, are applied.

      ii. For wetlands that score less than 5 points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying measures to minimize the impacts of the proposed land uses (see examples in Table 19.63.703-3).

Table 19.63.703-1 Wetland Buffer Requirements

| Wetland Characteristics | Buffer Widths by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|

| | | |
|---|---|---|
| **Category IV wetlands (for wetlands scoring less than 16 points for all functions)** | | |
| Score for all 3 basic functions is less than 16 points | Low - 25 ft<br>Moderate – 40 ft<br>High – 50 ft | No recommendations at this time |
| **Category III wetlands (for wetlands scoring 16-18 points for all functions or isolated vernal pools)** | | |
| Moderate level of function for habitat (score for habitat 5-7 points) | Low - 75 ft<br>Moderate – 110 ft<br>High – 150 ft | No recommendations at this time |
| Not meeting above characteristic | Low - 40 ft<br>Moderate – 60 ft<br>High – 80 ft | No recommendations at this time |
| **Category II wetlands (for wetlands scoring 19-21 points for all functions or having the "Special Characteristics" identified in the rating system)** | | |
| High level of function for habitat (score for habitat 8-9 points) | Low - 100 ft<br>Moderate – 150 ft<br>High – 200 ft | Maintain connections to other habitat areas |

| **Wetland Characteristics** | **Buffer Widths by Impact of Proposed Land Use** | **Other Measures Recommended for Protection** |
|---|---|---|
| Moderate level of function for habitat (score for habitat 5-7 points) | Low - 75 ft<br>Moderate – 110 ft<br>High – 150 ft | No recommendations at this time |
| High level of function for water quality improvement and low for habitat (score for water quality – 8-9 points; habitat less than 5 points) | Low - 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No additional surface discharges of untreated runoff |
| Vernal pool | Low - 100 ft<br>Moderate – 150 ft<br>High – 200 ft<br>OR<br>Develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to:<br>Low - 40 ft<br>Moderate – 60 ft<br>High – 80 ft | No intensive grazing or tilling in the wetland |
| Riparian forest | Buffer width to be based on score for habitat functions or water quality functions | Riparian forest wetlands need to be protected at a watershed or sub-basin scale (protection of the water regime in the watershed)<br>Other protection based on needs to protect habitat and/or water quality functions |
| Not meeting above characteristics | Low - 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No recommendations at this time |
| **Category I wetlands (for wetlands scoring 22 points or more for all functions or having the "Special Characteristics" identified in the rating system).** | | |

| | | |
|---|---|---|
| Wetlands With High Conservation Value | Low - 125 ft<br>Moderate – 190 ft<br>High – 250 ft | No additional surface discharges to wetland or its tributaries<br>No septic systems within 300 ft<br>Restore degraded parts of buffer |
| Bogs | Low - 125 ft<br>Moderate – 190 ft<br>High – 250 ft | No additional surface discharges to wetland or its tributaries<br>Restore degraded parts of buffer |
| Forested | Buffer size to be based on score for habitat functions or water quality functions | If forested wetland scores high for habitat, need to maintain connectivity to other natural areas<br>Restore degraded parts of buffer |
| Alkali | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft | No additional surface discharges to wetland or its tributaries<br>Restore degraded parts of buffer |
| High level of function for habitat (score for habitat – 8-9 points) | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft | Maintain connections to other habitat areas<br>Restore degraded parts of buffer |
| Moderate level of function for habitat (score for habitat 5-7 points) | Low – 75 ft<br>Moderate – 110 ft<br>High – 150 ft | No recommendations at this time |

| Wetland Characteristics | Buffer Widths by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| High level of function for water quality improvement ( 8-9 points) and low for habitat (less than 5 points) | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No additional surface discharges of untreated runoff |
| Not meeting any of the above characteristics | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No recommendations at this time |

Table 19.63.703-2 Types of proposed land use that can result in high, moderate, and lowlevels of impacts to adjacent wetlands.

| Level of Impact from Proposed Change in Land Use | Types of Land Use Based on Common Zoning Designations |
|---|---|
| High | • Commercial<br>• Urban<br>• Industrial<br>• Institutional<br>• Retail sales<br>• Residential (more than 1 unit/acre)<br>• High-intensity recreation (golf courses, ball fields, etc.) |
| Moderate | • Residential (1 unit/acre or less)<br>• Moderate-intensity open space (parks with biking, jogging, etc.)<br>• Paved trails<br>• Building of logging roads<br>• Utility corridor or right-of-way shared by several utilities and including access/maintenance road |
| Low | • Forestry (cutting of trees only)<br>• Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)<br>• Unpaved trails<br>• Utility corridor without a maintenance road and little or no vegetation management. |

Table 19.63.703-3 Examples of measures to minimize impacts to wetlands from proposedchange in land use that have high impacts.

(This is not a complete list of measures.)

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | • Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion;<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | • Use best management practices to control dust |

c. Increased wetland buffer area width. Buffer widths shall be increased on a case-by-case basis as determined by the Director of Public Works or the SMP Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

   i. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or

   ii. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or

   iii. The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

d. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

   i. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area;

   ii. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional;

   iii. The total area of the buffer after averaging is equal to the area required without averaging;

   iv. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

2. Measurement of wetland buffers. All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

3. Buffers on mitigation sites. All mitigation sites shall have buffers consistent with the buffer requirements of this Section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

4. Buffer maintenance. Except as otherwise specified or allowed in accordance with this Section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond (Subsection (G)(9)(b)(i)(h) of this Section).

5. Impacts to buffers. Requirements for the compensation for impacts to buffers are outlined in Subsection (G) of this Section.

6. Overlapping critical area buffers. If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

7. Allowed buffer uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

    a. Conservation and restoration activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

    b. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

        i. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

        ii. Wildlife-viewing structures.

    c. Educational and scientific research activities.

    d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

    e. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

    f. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the groundwater connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the groundwater connection to the wetland or percolation of surface water down through the soil column is disturbed.

    g. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

h. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. Stormwater management facilities are not allowed in buffers of Category I or II wetlands. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:
    i. No other location is feasible; and
    ii. The location of such facilities will not degrade the functions or values of the wetland.

i. Non-conforming uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of non-conformity.

8. Signs and fencing of wetlands and buffers.

a. Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Director of Public Works or the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

b. Permanent signs. As a condition of any permit or authorization issued pursuant to this Section, the SMP Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.
    i. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post, or another non-treated material of equal durability. Signs must be posted at an interval of one (1) per lot or every fifty (50) feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

        Protected Wetland Area
        Do Not Disturb
        Contact Whitman County Planning
        Regarding Uses and Restriction

    ii. The provisions of subsection (i) may be modified as necessary to assure protection of sensitive features or wildlife.

c. Fencing.
    i. The SMP Administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the SMP Administrator shall condition any permit or authorization issued pursuant to this Section to require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.
    ii. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

F. Critical Area Report for Wetlands

1. If the Director of Public Works or the SMP Administrator determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a wetland report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant.

2. Minimum standards for wetland reports. The written report and the accompanying plan sheets shall contain the following information, at a minimum:

a. The written report shall include at a minimum:

i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project.

ii. A statement specifying the accuracy of the report and all assumptions made and relied upon.

iii. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.

iv. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.

v. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 200 feet of the project boundaries using the best available information.

vi. For each wetland identified on-site and within 200 feet of the project site provide: the wetland rating per Wetland Ratings (Subsection (B) of this Section); required buffers;hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extentpossible, hydrologic information such as location and condition of inlet/outlets (if they can belegally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portionpresent on the proposed project site.

vii. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative.

viii. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.

ix. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

x. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

b. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

i. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);

ii. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

G. Compensatory Mitigation

1. Mitigation sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that mitigation sequencing has been applied (Subsection 19.63.603(B)(4)).

2. Requirements for compensatory mitigation.

a. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1),* Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended.

b. Mitigation ratios shall be consistent with Subsection G.7 of this Section.

3. Compensating for lost or affected functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

   a. The lost wetland provides minimal functions and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

   b. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the County, such as replacement of historically diminished wetland types.

4. Preference of mitigation actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

   a. Restoration (re-establishment and rehabilitation) of wetlands;

   b. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design;

   c. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements;

   d. Preservation.

      i. Preservation of high-quality, at risk-wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation.

      ii. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

         a) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species;

         b) There is no net loss of habitat functions within the watershed or basin;

         c) Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;

         d) The impact area is small (generally <½ acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

      iii. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

5. Type and location of compensatory mitigation.

   a. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands

are impacted). Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

i. There are no reasonable opportunities on-site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

ii. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

iii. Off-site locations shall be in the same sub-drainage basin unless:

a) Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; or

b) Credits from a state-certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.

b. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

6. Timing of compensatory mitigation.

a. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

b. The Director of Public Works or the SMP Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the County.

7. Wetland mitigation ratios:

Table 19.63.703-4 Wetland mitigation ratios.

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement | Preservation |
|---|---|---|---|---|
| Category I: Bog, Natural Heritage site | Not considered possible | 6:1 | Case-by-case | Case-by-case |
| Category I: Mature Forested | 6:1 | 12:1 | 24:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 | 20:1 |
| Category II: | 3:1 | 6:1 | 12:1 | 20:1 |
| Category III | 2:1 | 4:1 | 8:1 | 15:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 | 10:1 |

8. Credit/debit method. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).
9. Compensatory mitigation plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:
    a. Wetland critical area report. A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in Subsection 19.63.703(F);
    b. Compensatory mitigation report. The report must include a written report and plan sheets that must contain, at a minimum, the following elements. Full guidance can be found in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended).
        i. The written report must contain, at a minimum:
            a) The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project;
            b) Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands;
            c) Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding lands uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating (Subsection (B) of this Section);
            d) Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. . Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?);

e) A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands;

f) A description of the proposed mitigation construction activities and timing of activities;

g) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);

h) A bond estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring;

i) Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

ii. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

a) Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;

b) Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

c) Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;

d) Conditions expected from the proposed actions on site including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;

e) Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Section;

f) A plant schedule for the compensation area including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, total number of each species by community type, timing of installation;

g) Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.

10. Buffer mitigation ratios. Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

11. Wetland mitigation banks.

a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

i. The bank is certified under state rules;

ii. The Director of Public Works or the SMP Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification;

c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

12. In-lieu fee. To aid in the implementation of off-site mitigation, the County may develop an in-lieu fee program. This program shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu fee mitigation, and state water quality regulations. An approved in-lieu-fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor, a governmental or non-profit natural resource management entity. Credits from an approved in-lieu-fee program may be used when paragraphs a-f below apply:

a. The SMP Administrator determines that it would provide environmentally appropriate compensation for the proposed impacts;

b. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu-fee program instrument;

c. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument;

d. Land acquisition and initial physical and biological improvements of the mitigation site must be completed within three years of the credit sale;

e. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu-fee program;

f. Credits from an approved in-lieu-fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu-fee instrument.

13. Advance mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented consistent with federal rules, state policy on advance mitigation and state water quality regulations documented in Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (Ecology Publication No. 12-06-015, December 2012).

14. Alternative mitigation plans. The SMP Administrator may approve alternative critical areas mitigation plans that are based on the most current, accurate, and complete scientific and technical information available, such as priority restoration plans that achieve restoration goals identified in the SMP. Alternative mitigation proposals must provide an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this Section.

The SMP Administrator shall consider the following for approval of an alternative mitigation proposal:

a. The proposal uses a watershed approach consistent with *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-07, Olympia, WA, November 2010);

b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;

c. Mitigation according to Subsection (G)(5) of this Section is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologic hazards;

d. There is clear potential for success of the proposed mitigation at the proposed mitigation site;

e. The plan shall contain clear and measurable standards for achieving compliance with the specific provisions of the plan. A monitoring plan shall, at a minimum, meet the provisions in Section (G)(9) of this Section;

f. The plan shall be reviewed and approved as part of overall approval of the proposed use;

g. A wetland of a different type is justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative;

h. Mitigation guarantees shall meet the minimum requirements as outlined in Subsection (G)(9)(b)(i)(h) of this Section);

i. Qualified professionals in each of the critical areas addressed shall prepare the plan;

j. The County may consult with agencies with expertise and jurisdiction over the resources during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

H. Unauthorized Alterations and Enforcement

1. Unauthorized wetland or wetland buffer alterations will be addressed by the SMP Administrator consistent with Section 19.63.304 (Enforcement, Violations, and Penalties), Subsection 19.63.702(T) (Unauthorized Critical Area Alterations and Enforcement), and the following:

2. Minimum performance standards for restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

a. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions;

b. The historic soil types and configuration shall be restored to the extent practicable;

c. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration;

d. Information demonstrating compliance with other applicable provisions of this Section shall be submitted to the Director of Public Works or the SMP Administrator.

## 19.63.704 FISH AND WILDLIFE HABITAT CONSERVATION AREAS

A. Purpose

It is the intent of Whitman County to recognize the importance of protecting fish and wildlife habitat conservation areas while at the same time encouraging continued economic development of the County, including the continuation of agriculture. Implementation of this Section is directed toward preserving resources by steering incompatible development away from these areas and/or by providing adequate and appropriate mitigation measures to development that alleviate negative impacts. An applicant shall be required to obtain a fish and wildlife habitat evaluation for any parcel upon which any proposed development or non-development clearing activities within or adjacent to designated habitat areas in shoreline jurisdiction. If the evaluation reveals the existence of a designated fish and wildlife habitat area, a critical area report is required.

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B. Designation

All areas within Whitman County meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;
2. State priority habitats and areas associated with state priority species;
3. Habitats and species of local importance.

   Areas legislatively designated and mapped by the County because of unusual or unique habitat warranting protection due to their population status or sensitivity to habitat manipulation. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

   a. Designation process. The County shall accept and consider nominations for habitat areas and species to be designated as locally important on an annual basis. The nomination may include management strategies for the species or habitats. Management strategies must be supported by the most current, accurate, and complete scientific and technical information available, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination. Habitats and species may be nominated for designation by any person. A habitat characteristics hand-out with guidelines on important characteristics for nominating locally important habitat areas is available from the planning office. The process for nomination is as follows:
      i. The SMP Administrator shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in Subsection a and make a recommendation to the Planning Commission based on those findings;
      ii. The Planning Commission shall hold a public hearing for proposals and make a recommendation to the Board of County Commissioners based on the characteristics enumerated in Subsection a;
      iii. The Board of County Commissioners shall then decide whether or not to approve the application to designate an area for a Habitat or Species of Local Importance;
      iv. Approved nominations will be subject to the provisions of this Section.
4. Naturally occurring ponds under twenty acres. Naturally occurring ponds are those ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation;
5. Waters of the state. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington, as classified in WAC 222-16-031;
6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

7. State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources;
8. Areas of rare plant species and high quality ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program; and
9. Land useful or essential for preserving connections between habitat blocks and open spaces.

C. Mapping

The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the County, as most recently updated. The following critical area maps are hereby adopted:

1. Washington Department of Fish and Wildlife priority habitat and species maps;
2. Washington State Department of Natural Resources, official water type reference maps, as amended;
3. Washington State Department of Natural Resources Natural Heritage Program mapping data;
4. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors reports published by the Washington Conservation Commission;
5. Washington State Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
6. County official habitat maps.

These maps are to be used as a guide for the County, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

D. Critical Area Report-Additional Requirements for Habitat Conservation Areas

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a qualified professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;
2. Areas addressed in critical area report. The following areas shall be addressed in a critical area report for habitat conservation areas:
    a. The project area of the proposed activity;
    b. All habitat conservation areas and recommended buffers within three hundred (300) feet of the project area; and
    c. All shoreline areas, floodplains, other critical areas, and related buffers within three hundred (300) feet of the project area.
3. Habitat assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:
    a. Detailed description of vegetation on and adjacent to the project area and its associated buffer;

b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

c. A discussion of any federal, state, or local special 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 the project area;

d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

e. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the proposed activity; and

f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional information may be required. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the habitat management plan to include:

a. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

b. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian Tribe or other appropriate agency; and

c. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

E. Performance Standards

1. General performance standards. The following standards shall apply within all habitat conservation areas:

a. Alteration of habitat areas. A habitat conservation area may be altered only if the proposed alteration and any proposed mitigation does not degrade the functions and values of the habitat. New structures and land alterations shall be prohibited from habitat conservation areas except in accordance with this Chapter;

b. Non-indigenous species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval;

c. Mitigation and contiguous corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas;

d. Additional conditions. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the most current, accurate, and complete scientific and technical information available and may include, but are not limited to, the following:

i. Establishment of buffer zones;

ii. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;

iii. Limitation of access to the habitat area, including fencing to deter unauthorized access;

iv. Seasonal restriction of construction activities;

v. Establishment of a duration and timetable for periodic review of mitigation activities; and

vi. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

e. Equivalent mitigation required. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site;

f. Approvals and the scientific information. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available;

g. Buffers.

i. Establishment of buffers. The SMP Administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife.

ii. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

iii. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

a) It will not reduce stream or habitat functions;

b) It will not adversely affect salmonid habitat;

c) It will provide additional natural resource protection, such as buffer enhancement;

d) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

e) The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

h. Signs. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur. The SMP Administrator may require permanent signs with specific and appropriate wording be installed along the boundary of a habitat conservation area or buffer as a condition of any permit or approval;

i. Fencing.

i. The SMP Administrator shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the SMP Administrator shall condition any permit or authorization issued pursuant to this Section to require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer, when fencing will prevent future impacts to the habitat conservation area.

ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

iii. Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

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j. Subdivisions. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

i. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided;

ii. Land that is located partially within a habitat conservation area or its buffer may be divided provided that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements of Chapter 19.10 of the Whitman County Code;

iii. Access roads and utilities serving the proposed subdivision may be permitted within the habitat conservation area and associated buffers only if the Planning Director determines that no other feasible alternative exists and when consistent with this Section.

2. Specific habitat performance standards.

a. Endangered, threatened and sensitive species.

i. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

ii. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the County. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

iii. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within eight hundred (800) feet or within one half mile (2,640 feet) and in a shoreline foraging area. The habitat management plan shall be approved by the U.S. Fish and Wildlife Service.

b. Anadromous fish.

i. All activities, uses, and alterations proposed to be located in waterbodies used by anadromous fish or in areas that affect such waterbodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

a) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

b) An alternative alignment or location for the activity is not feasible;

c) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

d) Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and

e) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

ii. Structures that prevent the migration of salmonids shall not be allowed in the portion of waterbodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

iii. Fills, when authorized by this SMP, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

c. Riparian habitat areas. Unless otherwise allowed in this Section, all structures and activities shall be located outside of the riparian habitat area.

i. Establishment of riparian habitat areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, lakes, seeps, and springs.

ii. Riparian habitat area widths.

a) Required riparian habitat area widths are shown in Tables 19.63.704-1, -2 and -3. A riparian habitat area shall have the width specified, unless a greater width is required pursuant to Subsection (c)(iii), or a lesser width is allowed pursuant to Subsection (c)(iv).

b) Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified.

c) Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer that applies in the landward designation is that buffer which is specified for that designation and is still measured from the ordinary high water mark.

Table 19.63.704-1 Riparian habitat area widths

| Water Types | RHA Widths[1] |
|---|---|
| Type S - Shorelines of the State | See Tables 19.63.704-2 and -3 |
| Type F - other perennial or fish-bearing waters<br>channel >5 feet wide<br>channel < 5 feet wide | <br>200 feet<br>150 feet |
| Type Np – perennial, nonfish habitat waters | 100 feet |
| Type Ns - seasonal, nonfish habitat waters | 50 feet |
| Any stream type that is culverted or buried is not subject to limits at that site | 0 feet |

[1] Non shoreline riparian habitat areas subject to the buffers and other critical area protections herein only when passing through shoreline jurisdiction

Table 19.63.704-2 Shoreline Riparian Habitat Areas

| Shoreline Environment Designation | | Standard Buffer |
|---|---|---|
| All Designations | | For water-dependent developments, no minimum required buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| Shoreline Parks | | Snake River: 30 feet<br>Palouse River: 150 feet<br>Union Flat Creek: 50 feet |
| Rural Conservancy | Snake River | The lesser of the distance from the OHWM to the waterward edge of the legally existing road or railroad paralleling the river, or 150 feet |
| | All Others | 150 feet |

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| Shoreline Environment Designation | | Standard Buffer |
|---|---|---|
| Rural Industrial/Port | Snake River | Where a road or railroad parallels the shoreline, the distance between the OHWM and the waterward edge of the road or railroad bed. |
| | | • Where no paved road or railroad parallels the river within shoreline jurisdiction, the distance between the OHWM and the top of the fill slope.<br>• Where no fill slope is present, the greater of the area between the OHWM and top of slope or 50 feet |
| | Palouse River | North bank: Between the OHWM and waterward edge of the road |
| | | South bank: 50 feet |
| | Pine Creek | The lesser of 50 feet or the waterward edge of the wastewater lagoons access road |

iii. Increased riparian habitat area width. The riparian habitat area widths shall be increased as follows:
   a) When the SMP Administrator determines that the width is insufficient to prevent habitat degradation and to protect the structure and function of the habitat area;
   b) When the frequently flooded area exceeds the riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
   c) When a channel migration zone is present, the riparian habitat area width shall be measured from the outer edge of the channel migration zone;
   d) When the habitat area is in an area of high blowdown potential, the riparian habitat area width shall be expanded an additional fifty (50) feet on the windward side; or
   e) When the habitat area is within an erosion or landslide hazard area, or buffer, the riparian habitat area width shall be the required distance, or the erosion or landslide hazard area or buffer, whichever is greater.

iv. Riparian habitat area width averaging. The SMP Administrator may allow the riparian habitat area width to be reduced in accordance with a critical area report only if:
   a) The width reduction will not reduce stream, lake or habitat functions, including those of non-fish habitat;
   b) The width reduction will not degrade the habitat, including habitat for anadromous fish;
   c) The proposal will provide additional habitat protection;
   d) The total area contained in the riparian habitat area of each stream or lake on the development proposal site is not decreased;
   e) The riparian habitat area width is not reduced by more than 25% in any one location;
   f) The width reduction will not be located within another critical area or associated buffer; and
   g) The reduced riparian habitat area width is supported by the most current, accurate, and complete scientific and technical information available.

v. Riparian habitat mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

vi. Alternative mitigation for riparian habitat areas. The performance standards set forth herein for riparian habitat areas may be modified at the County's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

d. Uses and modifications allowed in RHAs. The following uses are allowed in riparian habitat areas and building setbacks in all shoreline environment designations consistent with Table 19.63.612-1 of the SMP, provided that mitigation sequencing is demonstrated and any adverse impacts to ecological functions are mitigated.

i. Accessories to water-dependent uses. New uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced shoreline buffer unless at least one of the following is met:

a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility);

b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established and the accessory would not conflict with or limit opportunities for other water-oriented uses;

c) The accessory use, development or activity can be located upland of the water-dependent use; or

d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer) and

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this section or in this SMP.

ii. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

iii. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the shoreline buffer to the OHWM. Impervious materials may be used only as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

iv. Water-oriented public access and recreation facilities standards. New development and redevelopment of water-oriented public access and recreation structures are allowed in buffers provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 19.63.603 (Environmental Protection), 19.63.604 (Shoreline Vegetation Conservation), 19.63.605 (Water Quality, Stormwater and Nonpoint Pollution), and Section 19.63.700

(Shoreline Critical Areas Policies and Regulations). The County may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

## 19.63.705 CRITICAL AQUIFER RECHARGE AREAS

A. Purpose and Applicability

1. The purpose of this Section is to designate and protect critical aquifer recharge areas in shoreline jurisdiction pursuant to the Growth Management Act (chapter 36.70A RCW) to safeguard the public health, safety and welfare and to protect groundwater resources. Critical aquifer recharge areas (CARAs) are areas with a recharging effect on aquifers used for potable water that are vulnerable to contamination that would affect water quality. CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. These areas include the following:

   a. Wellhead protection areas. Potable water-supply purveyors using groundwater must develop and implement wellhead protection programs that include delineation of protection areas around each well, inventorying of contamination sources within wellhead protection areas, and development and implementation of water supply contingency and spill response plans to address contamination incidents that could cause loss of a well. The State of Washington wellhead protection regulations exclude individual domestic wells and well systems that do not meet the definition of public water supplies.

   b. Sole source protection aquifers: Sole source aquifers are areas designated by the U.S. Environmental Agency pursuant to the Federal Safe Water Drinking Act.

   c. Susceptible groundwater management areas: Susceptible groundwater management areas are areas that have been designated as moderately, or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapters 173-100 WAC.

   d. Special protection areas: Defined pursuant to WAC 173-200-090.

   e. Moderately, highly vulnerable or highly susceptible aquifer recharge areas: Aquifer recharge areas that are moderately, highly vulnerable or highly susceptible to degradation or depletion due to hydro-geologic characteristics are those areas delineated by a hydro-geologic study prepared in accordance with the state Department of Ecology guidelines or meeting the criteria established by the Department of Ecology.

2. Aquifer recharge area susceptibility ratings: CARAs shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration, and depth to water as determined by the criteria established by the state Department of Ecology.

3. The County has designated CARAs pursuant to RCW 36.70A.170 by defining them and providing criteria for their identification. Project proponents are responsible for informing the County whether a CARA exists on their property and is regulated pursuant to this chapter. Specific criteria for the designation of CARAs are contained in this Section. Current data, as confirmed by several hydro-geological studies, find that aquifer recharge in Whitman County to be an area-wide process. Recharge is thought to occur as deep percolation and snowmelt over a wide area rather than occurring as a process involving large volumes of recharge getting into the aquifer in discrete areas. To date, no specific CARAs have been identified in Whitman County.

B. Procedure

1. An applicant seeking to develop property which requires any type of county permit or approval shall submit with the

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application an Affidavit of Awareness certifying that to the best of their

knowledge none of the criteria stated in the affidavit exist on the property. This affidavit will comply with RCW 9A.72.085 (see Subsection (G) of this Section). Any application that fails to contain a signed affidavit shall be rejected and only accepted upon resubmission of a signed affidavit.

2. If any of the stated criteria on the Affidavit of Awareness are present on the development property, the Planning Office shall direct the applicant to comply with Subsection (G) of this Section and submit a certified hydro-geologic assessment.

3. If an applicant's statement asserts that none of the Subsection 19.63.705(G) criteria apply to the parcel or its present or future development, the Planning Office may accept the statement and proceed with the permitting or approval process. If the Planning Office has or obtains information which clearly establishes the applicant's statement is incorrect, the applicant will be advised in writing of the inconsistent information and advised to either (a) provide an amended statement adding the designated criteria as being applicable and obtain a hydro-geologic assessment, or, (b) present sufficient countering information clearly establishing that the basis for the Planning Office's concern is incorrect. The final determination concerning whether a hydro-geologic assessment is required shall be with the Director of Public Works. The Director of Public Works' decision shall be final and no interlocutory appeal shall be allowed.

4. Should the hydro-geological assessment conclude that the development will have a critical effect on an aquifer recharge area the applicant shall incorporate all the recommendations, conditions, and/or requirements for protecting the area having a critical recharging effect on aquifers used for potable water into the development's plan. The completed hydro-geologic assessment shall be received by the Planning Office with the development's plans setting out the mitigation measures and their implementation as required by the assessment before any permit or approval is granted. The granting of any permit or approval shall be conditioned upon complete and continued implementation of the mitigation measures. The Planning Office shall have the responsibility to monitor and enforce all recommendations, conditions, and/or requirements as set forth in the hydro-geologic assessment.

C. Activities Allowed in Critical Aquifer Recharge Areas

The following are allowed in CARAs, and do not require approval or submission of a site assessment report:

1. All residential uses;

2. Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five percent total site impervious surface area that do not increase the use of a hazardous substance;

3. Public water pipelines and supply storage structures; and

4. On-site domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre.

D. Site Assessment Report

Development proposals in a CARA require a site assessment report. The site assessment report must meet the requirements of this Section.

1. Preparation by a qualified professional. The critical area report shall be prepared by, or under the direction of, and signed by a professional engineer, licensed in the State of Washington, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or by a geologist or

hydro-geologist who earns his or her livelihood from the field of geology and/or hydrogeology and has received a degree in geological sciences from an accredited four year institution of higher education and who has relevant training and experience analyzing geologic, hydrologic, and groundwater flow systems.

2. A site plan shall be prepared in accordance with the requirements of the SMP Administrator. In addition, a site assessment report shall include:
   a. A description of the project including those activities, practices, materials, or chemicals that have a potential to adversely affect the quantity or quality of underlying aquifer(s);
   b. Identification of appropriate mitigation measures and description of how they will prevent degradation of underlying aquifer(s);
   c. A site plan or another appropriately sealed map showing the approximate location of known or geologically representative well(s) (abandoned and active), spring(s), and surface watercourses within 1,000 feet of the subject project property. All well logs available through the County Health Department for identified wells within 1,000 feet of the project property shall be included;
   d. A description of the site-specific hydro-geologic characteristics regarding impact to the quantity or quality of underlying aquifer(s). At a minimum, this will include a description of the lithology, depth to and static water level of known underlying aquifer(s), and depiction of groundwater flow direction and patterns on the appropriate map; and
   e. Identification of the initial receptors of potential adverse impacts located hydraulically down-gradient form the project within 1,000 feet or as otherwise directed by Subsection (G) of this Section.
3. Additional site assessment elements. After the initial project review, one or more of the site assessment elements listed below may be required based upon the proposed project activity, aquifer recharge area classification, complexity of underlying hydro-geologic conditions, and/or the perceived potential to adversely impact hydraulically down-gradient receptors. One or more of these additional elements may also be required if the applicant chooses to demonstrate that certain mitigation measures are not necessary to protect the quantity or quality of the underlying aquifer(s), or that the project does not pose a detrimental risk to hydraulically down-gradient receptors.
   a. Lithologic characteristics and stratigraphic relationships of the affected aquifer(s) and overlying geologic unites (includes soil types) including thickness, horizontal and vertical extent, permeability, and infiltration rates of surface soils.
   b. Delineation of identified structural features such as faults, fractures, and fissures.
   c. Aquifer characteristics including determination or recharge and discharge areas, transmissivity, storage, hydraulic conductivity, porosity, and estimate of groundwater flow direction, velocity and patterns for the affected aquifer(s).
   d. Estimate of precipitation, evaporation, and evapotranspiration rates for the project area.
   e. Preparation of appropriate hydro-geologic cross sections depicting at a minimum underlying lithology and stratigraphy, aquifer(s), and potential or probable contaminant pathways from a chemical release.
   f. Contaminant fate and transport including probable migration pathways and travel time of potential contaminant release(s) from the site through the unsaturated zone to the aquifer(s) from the site through the unsaturated zone to the aquifer(s) may be attenuated within the unsaturated zone and aquifer(s). Include consideration of advection, dispersion, and diffusion of contaminants in the groundwater.
   g. Delineation of areas potentially affected by contaminant migration on the ground surface and/or through the affected aquifer(s).

h. Determination of background or existing groundwater quality underlying the project area.

i. Development of groundwater monitoring program to measure potential impacts of the development of underlying aquifer(s).

j. Development of a spill plan and/or contingency plan describing the specific actions, which will be taken if a release of a contaminant(s) occurs, or if groundwater monitoring results indicate a contaminant(s) from the site has entered the underlying aquifer(s).

k. The degree of continuity between groundwater and nearby surface water including potential impact to "closed" or "low-flow" streams from proposed groundwater withdrawals, and potential impacts to surface water quality from site runoff or contaminated groundwater discharge.

l. Applicable projects shall be required to determine appropriate pumping rates and schedules that maintain appropriate pumping rates and schedules that maintain dynamic draw down levels above mean seal level.

m. Applicable projects such as special use permits, short plats, or long plats shall test existing and/or test wells for nitrate levels and where appropriate calculate the nitrate loading rate at full build-out of the project. If the calculated nitrate loading in the intended water supply equals or exceeds 5 mg/L nitrate as nitrogen, the proposal will need to develop a mitigation plan. The point of compliance shall be determined based on project specifics.

n. A description of wetlands and fish and wildlife habitat conservation areas and their buffers when such occur within 300 feet of the recharge area.

E. Performance Standards

1. General performance standards. Except as may be otherwise provided, the following standards shall apply within all CARAs:

   a. Activities may only be permitted within a CARA if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and the proposed activity will not adversely affect the recharging of the aquifer;

   b. The proposed activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, the state Department of Health, and the Whitman County Public Health Department; and

   c. The proposed activity must be designed and constructed in accordance with existing local, state and federal laws and regulations, and the Stormwater Management Manual for Eastern Washington, as amended (Ecology 2004) for those geographic areas covered under the Eastern Washington Phase II Municipal Stormwater Permit (Ecology 2007) or activities covered under the Ecology General Construction Permit (Ecology 2005), and/or the locally adopted stormwater program, as applicable.

2. Performance standards - specific uses. In addition to general performance standards required herein, the following standards shall be required for the following specific uses:

   a. Storage tanks. Storage tanks shall meet the following requirements in addition to County building codes:

      i. Underground tanks. All new underground storage facilities proposed for storage of hazardous substances or hazardous wastes shall be designed and constructed to:

         a) Prevent releases due to corrosion or structural failure for the operational life of the tank;

         b) Be constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

         c) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

ii. Above ground tanks. Above ground storage facilities proposed to store hazardous substances or waste shall be designed to:

a) Not allow the release of a hazardous substance to the ground waters, or surface waters;

b) Have a primary containment area enclosing or underlying the tank or part thereof; and

c) Incorporate a secondary containment system either built into the tank structure or a dike system built outside the tank or tanks.

b. Vehicle repair and servicing.

i. Vehicle repair and servicing shall be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing shall be stored in a manner protecting them from weather and provide containment in the event of leaks.

ii. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment shall be abandoned using techniques approved by the Department of Ecology prior to the proposed activity.

c. Residential use of pesticides and nutrients. Application of household pesticides, herbicides, and fertilizers shall not exceed times and rates specified by the product manufacturer.

d. Spreading or injection of reclaimed water. Water re-use projects for reclaimed water shall be in accordance with County water and/or wastewater comprehensive plans and shall comply with the following requirements:

i. Surface spreading shall meet the groundwater recharge criteria pursuant to Chapter 90.46.080 and 90.46.042 RCW; and

ii. Direct injection shall be in accordance with standards pursuant to Chapter 90.46.042 RCW.

F. Prohibited Uses

1. Landfills, including hazardous waste, municipal solid waste, special waste, woodwaste, inert waste, and demolition waste.
2. Underground injection wells of classes I, Ill, and IV and subclasses 5FOl, 5D03, 5F04, 5W09, 5WlO, 5Wll, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
3. Mining of metals and hard rock. Sand and gravel mining shall also be prohibited from CARAs rated as highly susceptible or vulnerable.
4. Wood treatment facilities that allow any portion of the treatment process to occur over natural or manmade permeable surfaces.
5. Facilities that store, process, or dispose of radioactive substances.
6. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source.
7. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.
8. Activities that are not connected to an available sanitary sewer system in areas associated with sole source aquifers.

G. Affidavit of Awareness

Before being issued a building permit, an affidavit of awareness will be signed by the applicant indicating that the development is not within any public wellhead protection zones designated under WAC 246-290; the site will not be used for hazardous substances [as now or hereafter defined in RCW 70.105D.020(7)], processing, storage or handling in applications or quantities larger than is

typical of household use; the site will not be used for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended; the site will not be used as a commercial feedlot; and the development envelope is not within 200 feet of the ordinary high water mark of a river, stream, lake or pond and by reference to the U.S.G.S. map is identified as “perennial” thereon.

If the proposed development involves any of the above mentioned examples the applicant shall be required to obtain a hydro-geologic assessment

*Affidavit of Awareness*

*I_____state that I am not aware of any critical aquifer recharge areas near the location of my proposed development. Specifically, I am not aware of any public wellhead protection zones designated under WAC 246-290; the site will not be used for hazardous substances [as now or hereafter defined in RCW 70.105D.020(7)], processing, storage or handling in applications or quantities larger than is typical of household use; the site will not be used for hazardous waste treatment and storage as set forth in RCW 70.105 Hazardous Waste Management, as now or hereafter amended; the site will not be used as a commercial feedlot; the development envelope is not within 200 feet of the ordinary high water mark of a river, stream, lake or pond and by reference to the U.S. Geological Survey map is identified as “perennial” thereon; and the development does not involve any of the prohibited uses listed in Subsection 19.63.705(F).*

*Signed_____Date_____*

(To assist applicants in complying with development within 200 feet of the above mentioned watercourses, the following is a non-exclusive list of generally accepted rivers, streams, and a lake within the County that are or portions are identified as being "perennial": North and South Forks of the Palouse River, Palouse River, Snake River, Union Flat Creek, Paradise Creek, Rock Lake, Rock Creek, Latah/Hangman Creek, Cottonwood Creek, Fourmile Creek, Missouri Flat Creek, Paradise Creek, and Pine Creek.)

## 19.63.706 GEOLOGICALLY HAZARDOUS AREAS

A. Purpose

It is the purpose of this Section to minimize hazards to the public from development activities on or adjacent to areas of geological hazard. For purposes of this Section, geologically hazardous areas include the following: erosion hazard areas, landslide hazard areas and seismic hazard areas.

B. Designation of Specific Hazard Areas

1. Erosion hazard areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture’s Natural Resources Conservation Service as having a “moderate to severe,” “severe," or “very severe” rill and inter-rill erosion hazard.

2. Landslide hazard areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

   a. Those areas delineated by the U.S. Department of Agriculture’s Natural Resources Conservation Service as having a “severe” limitation for building site development;

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b. Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or class 3), unstable old slides (UOS or class 4), or unstable recent slides (URS or class 5);

c. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;

d. Areas with all three of the following characteristics:

   i. Slopes steeper than fifteen percent (15%);

   ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

   iii. Springs or groundwater seepage.

e. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

f. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

g. Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking;

h. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;

i. Areas that show evidence of, or are at risk from snow avalanches;

j. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

k. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief.

3. Seismic hazard areas. Areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting.

4. Other hazard areas. Geologically hazardous areas shall also include areas determined by the SMP Administrator to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

C. Mapping

The approximate location and extent of geologically hazardous areas are shown on the following critical area maps hereby adopted for reference. These maps are subject to continuous updating as new critical areas are identified; therefore, they are a reference source and are not intended to provide a final critical area designation. They are as follows:

1. U.S. Geological Survey landslide and seismic hazard maps.

2. Washington State Department of Natural Resources slope stability maps.

3. Federal Emergency Management Administration flood insurance maps.

4. Applicable maps adopted by Whitman County and local jurisdictions.

D. Allowed Activities in Geologically Hazardous Areas

The following activities shall be allowed in geologically hazardous areas and shall not require a critical area report if the SMP Administrator first determines the activity will not increase the risk of the hazard:

1. Construction of new buildings with less than 2,500 square feet of floor or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly.
2. Additions to existing residences that are 250 square feet or less.
3. Installation of fences.

E. Critical Area Report/Additional Requirements for Geologically Hazardous Areas

1. Preparation by a qualified professional. A critical areas report for a geologically hazardous area shall be prepared by an engineer or geologist, licensed in the state of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.
2. Area addressed in critical area report. The following areas shall be addressed in a critical area report for geologically hazardous areas:
    a. The project area of the proposed activity; and
    b. All geologically hazardous areas within two hundred (200) feet of the project area or that have potential to be affected by the proposal;
3. Geological hazards assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site and proposal-related information at a minimum:
    a. Site and construction plans. The report shall include a copy of the site plans for the proposal showing:
        i. The type and extent of geologic hazard areas, any other critical areas, and buffers on, adjacent to, within two hundred (200) feet of, or that are likely to impact the proposal;
        ii. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain, if available;
        iii. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report; and
        iv. Clearing limits.
    b. Assessment of geological characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
        i. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
        ii. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site;
        iii. Site specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas; and
        iv. A description of the vulnerability of the site to seismic and other geologic events.
    c. Analysis of proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.

d. Minimum buffer and building setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

4. Incorporation of previous study. Where a valid critical areas report has been prepared within the last five (5) years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

5. Mitigation of long-term impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

F. Critical Area Report/Additional Technical Information Requirements for Specific Hazards

In addition to the general critical area report requirements of Subsection 19.63.702(I) (Critical Area Report Requirements), critical area reports for geologically hazardous areas must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

1. Erosion and landslide hazard areas. In addition to the basic critical area report requirements, the technical information for an erosion hazard or landslide hazard area shall include the following information at a minimum:

a. Site plan. The critical area report shall include a copy of the site plan for the proposal showing:

i. The height of slope, slope gradient, and cross-section of the project area;

ii. The location of springs, seeps, or other surface expressions of groundwater on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and

iii. The location and description of surface water runoff features;

b. Hazards analysis. The hazards analysis component of the critical areas report shall specifically include:

i. A description of the extent and type of vegetative cover;

ii. A description of subsurface conditions based on data from site-specific explorations;

iii. Descriptions of surface and ground water conditions, public and private sewage disposal systems, fills and excavations, and all structural improvements;

iv. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

v. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one hundred-year storm event;

vi. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down slope properties.

vii. A study of slope stability including an analysis of proposed cuts, fills, and other site grading;

viii. Recommendations for building siting limitations; and

ix. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

c. Geotechnical engineering report. The technical information for a project within a landslide hazard area shall include a geotechnical engineering report prepared by a licensed engineer that presents engineering recommendations for the following:
    i. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
    ii. Recommendations for drainage and subdrainage improvements;
    iii. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
    iv. Mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate;
d. Erosion and sediment control plan. For any development proposal on a site containing an erosion hazard area, an erosion and sediment control plan shall be required. The erosion and sediment control plan is subject to approval by the County Engineer;
e. Drainage plan. The technical information shall include a drainage plan for the collection, transport, treatment, discharge, and/or recycle of water prepared in accordance with the approval of the County Engineer. The drainage plan should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;
f. Mitigation plans. Hazard and environmental mitigation plans for erosion and landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability; and
g. Monitoring surface waters. If the County Engineer determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the County.

2. Seismic hazard areas. In addition to the basic report requirements, a critical area report for a seismic hazard area shall also meet the following requirements:
    a. The site map shall show all known and mapped faults within two hundred (200) feet of the project area or that have potential to be affected by the proposal;
    b. The hazards analysis shall include a complete discussion of the potential impacts of seismic activity on the site (for example, forces generated and fault displacement); and
    c. A geotechnical engineering report shall evaluate the physical properties of the subsurface soils, especially the thickness of unconsolidated deposits and their liquefaction potential. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented.
3. Other geologically hazardous areas. In addition to the basic requirements, the SMP Administrator may require additional technical information to be submitted when determined to be necessary to the review the proposed activity and the subject hazard. Additional technical information that may be required, includes, but is not limited to:
    a. Site plan. The site plan shall show all hazard areas located within two hundred (200) feet of the project area or that have potential to be affected by the proposal; and
    b. Hazards analysis. The hazards analysis shall include a complete discussion of the potential impacts of the hazard on the project area and of the proposal on the hazard.

G. Performance Standards

1. General performance standards. Except as otherwise provided, the following performance standards shall apply to geologically hazardous areas:
    a. The activity will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
    b. The activity will not adversely impact other critical areas;
    c. The activity is designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
    d. The activity is certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
2. Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.
3. Performance standards – Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide hazards shall meet the general performance standards required herein and the specific following requirements:
    a. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the administrative official to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional;
    b. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a geo-technical analysis is submitted and certifies that:
        i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
        ii. The development will not decrease slope stability on adjacent properties; and
        iii. Such alterations will not adversely impact other critical areas.
4. Design standards – Erosion and Landslide Hazard Areas. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this Section. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:
    a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
    b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
    c. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
    d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
    e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
    f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

g. Development shall be designed to minimize impervious lot coverage.

5. Vegetation retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

6. Utility lines and pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

7. Point discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

   a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

   b. Discharged at flow durations matching pre-developed conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; and

   c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope.

8. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

   a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided.

   b. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer; and

   c. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the County determines that no other feasible alternative exists.

9. Prohibited development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

10. Performance standards - Seismic Hazard Areas. Activities proposed to be located in seismic hazard areas shall meet the standards in Subsection (G)(1) of this Section.

11. Other hazard areas. Activities on sites containing or adjacent to other geologically hazardous areas shall meet the standards in Subsection (G)(1) of this Section.

## 19.63.707 FREQUENTLY FLOODED AREAS

A. Declaration of Intent

It is the purpose of this zoning district to minimize public and private losses due to flood conditions in specific areas designated by the County within shoreline jurisdiction, and the Federal Insurance Administration and the accompanying Flood Insurance Study and Flood Insurance Rate Maps (FIRM) dated May 1, 1980, and as may be subsequently amended. This zoning district overlays present or future districts also associated with the property designated on the Flood Insurance Rate Maps which are adopted as part of this Section by reference and does not add to the specified uses, but may restrict certain specified uses. This district is intended to meet the requirements of the federal government to maintain the County's eligibility for participation in the National Flood Insurance Program. The Flood Insurance Study and FIRM are on file at the Whitman County Planning

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Department. This Section shall apply to all areas of special flood hazards within the shoreline jurisdiction of unincorporated Whitman County.

B. Compliance

No structure or land area shall hereafter be constructed, located, extended, converted or altered without full compliance with this district and the district it may overlay.

C. Abrogation and Greater Restrictions

The provisions of this district are not intended to repeal, abrogate or impair any existing easements, covenants, deed restrictions or zoning. However, where this district and another district, easement, covenant or deed restriction conflict, or overlap, whichever imposes the more stringent restrictions consistent with flood protection, shall prevail.

D. Warning and Disclaimer of Liability

Flooding may occur to such an unpredictable extent that lands or uses outside of the designated floodplain are affected. The creation of this district does not imply that all areas outside of the district will always be safe from flooding.

Therefore, the establishment of this district shall not create liability on the part of the County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this district's provisions or any administrative decisions lawfully made thereunder.

E. Permitted Uses

Within the special flood hazard area, all uses permitted as specified in the zoning district and this SMP, overlaid by the Flood Management Overlay District. However, those uses are subject to the development permit process described in Subsection (F) of this Section and to special building code requirements.

F. Permit Required

A shoreline permit, shoreline exemption and any other applicable permits shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for any walled and roofed building or mobile home that is principally above ground and for all other development including fill and other activities. A floodplain evaluation is required for routine maintenance of drainages for such purposes of flood control and maintenance of tiling. Application for shoreline permits, shoreline exemptions and other applicable County permits shall be made on forms furnished by the County Planning office and may 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:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been flood-proofed where available flood data relates to depth of flood waters rather than height above mean sea level (e.g. the A-O Zone of the Flood Insurance Rate Map), then the depth of the 100-year flood should be substituted for elevation data;

3. Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Subsection (H) of this Section; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

G. Permit Review

1. Review all shoreline permit and shoreline exemption applications to determine that the requirements of this Section have been satisfied.
2. The SMP Administrator is hereby appointed to administer and implement this Section by granting or denying shoreline permit or shoreline exemption applications in accordance with its provisions.
3. It is the applicant's responsibility to seek and obtain all of the other Federal, State, or local agency permits that must be obtained for the project. Although Whitman County may use the SEPA or other notification process to inform other jurisdictions and agencies, Whitman County is not liable for the applicant's failure to obtain these permits. The failure of the applicant to obtain these other permits, when brought to Whitman County's attention, is basis for rescinding the County permit.
4. The SMP Administrator shall review all shoreline permit or shoreline exemption applications to determine if the proposed development is located in the floodway. If located in the floodway, the SMP Administrator will assure that the encroachment provisions of Subsection (H)(5) of this Section are met.
5. When base flood elevation data has not been provided (in A or V Zones) in accordance with Subsection (A) of this Section (Declaration of Intent) the SMP Administrator 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 Subsections (H)(2) and (H)(5) of this Section.
6. The information to be obtained and maintained will be as follows:
    a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Subsection (G)(5) of this Section, 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. (Recorded on a current elevation certificate [FF 81-31] with Section B completed by the local official);
    b. For all new or substantially improved flood-proofed non-residential structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Subsection (G)(5) of this Section:
        i. Obtain and record the elevation (in relation to mean sea level) to which the structure was flood-proofed (44 CFR 60.3(b)(5)(ii));
        ii. Maintain the flood-proofing certifications required in Subsection (F)(3) of this Section (44 CFR 60.3(b)(5)(iii)).
    c. Maintain for public inspection all records pertaining to the provisions of this Section (44 CFR 60.3(b)(5)(iii)).
7. Alteration of watercourses (44 CFR 60.3(b)(6)).
    a. 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.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

H. Development Standards

1. Due to the inherent dangers of development within a special flood hazard area, special development, construction and installation standards are necessary. Compliance with these standards must be assured before a shoreline permit or shoreline exemption will be issued.

   These special development requirements shall apply within floodplain areas subject to special flood hazards as shown on the Flood Insurance Rate Map prepared by or for the Federal Insurance Administration and which are discussed within the Flood Insurance Study prepared by or for the Federal Insurance Administration; or, have otherwise been delineated by the County. The map and study are available through the County Engineer's office.

2. In all areas of special flood hazards, the following standards are required:

   a. Anchoring:

      i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

      ii. All mobile/manufactured homes must likewise 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 (Reference FEMA's "Protecting Manufactured Homes from Floods and Other Hazards" guidebook for additional techniques).

   b. Construction materials and methods:

      i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

      ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

      iii. 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.

   c. Utilities:

      i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

      ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

      iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

      iv. Water wells shall be located on high ground that is not in the floodway.

   d. Subdivision proposals:

      i. All subdivision proposals shall be consistent with the need to minimize flood damage;

      ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

      iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

      iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

e. Review of building permits. Where elevation data is not available either through the Flood Insurance Study, FIRM or from another authoritative source (Subsection(G)(5) of this Section), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

3. In addition to meeting the requirements of Subsections (H)(1) and (2) of this Section, the following standards shall also apply where the anticipated elevation of a flood having a 100 year or more frequent expectation of occurrence has been developed and shown on a map or in a report adopted by the County.

a. Residential construction:

i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation;

ii. 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 floodwater. 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:

a) A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

b) The bottom of all openings shall be no higher than one (1) foot above grade; and

c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. Non-residential construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one (1) foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

i. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

iii. 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 County Engineer;

iv. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Subsection (H)(3)(a) of this Section; and

v. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

c. Mobile/manufactured homes. All mobile/manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot or more above the base flood elevation and is securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection (H)(2)(a)(ii) of this Section.

d. Critical facility. Construction of new critical facilities shall be, to the extent possible, located outside of the limits of the special flood hazard area (100-year floodplain). Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative

site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three (3) feet. Access to and from the critical facility should also be protected to that height. Flood proofing 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 base flood elevation shall be provided to all critical facilities to the extent possible.

e. Recreational vehicles. Recreational vehicles by Whitman County code are allowed in locations where RV Parks, storage and campgrounds have been permitted. In general, these facilities are not and have not been allowed within flood hazard areas. If a permit is granted to allow RV sites within a floodplain, the following additional requirements apply:

   i. The RV can be on-site for fewer than 180 consecutive days; and

   ii. The RV must be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

4. 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 (1) foot at any point within the community.

5. Floodways. Areas designated as floodways are located within areas of special flood hazard. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, and increase erosion potential, the following provisions apply:

   a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer licensed in the State of Washington 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. In addition, the developer and the developer's professional engineer licensed in the State of Washington shall be responsible for periodic inspections, routine channel clearing, and other related functions of the altered floodway's maintenance.

   b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) 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 beenidentified by the local code enforcement official and which are the minimum necessary to assuresafe living conditions, or to structures identified as historic places, may be excluded in the fifty (50) percent.

   c. If Subsection (H)(5)(a) of this Section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Subsection (H) of this Section (Development Standards).

I. Variance Standards

A Shoreline Variance from specific requirements of this Section may be approved by the Board of Adjustment after satisfying the requirements of Subsection 19.63.306(H) (Shoreline Variance) and Section 19.06.030 (Flood Management Variance).

# 19.63.800 Shoreline Use Policies and Regulations

## 19.63.800 AGRICULTURE

A. Policies

1. Promote and maintain productive agricultural lands in shoreline jurisdiction to maintain Whitman County's economic and cultural vitality.
2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.
3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.
4. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.
5. Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

1. Section 19.63.200 (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
2. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices
3. SMP provisions shall apply in the following cases:
    a. New agricultural activities on land not meeting the definition of agricultural land;
    b. Expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
    c. Conversion of agricultural lands to other non-agricultural uses;
    d. Other development on agricultural land that does not meet the definition of agricultural activities; and
    e. Agricultural development and uses not specifically exempted by the SMA.
4. Feed lots and stockyards are prohibited in shoreline jurisdiction.
5. For new cultivated areas, vegetative buffers consistent with Subsection 19.63.704(E) (Performance Standards) shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection (3).
6. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

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7. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction in accordance with Section 19.63.308 (Debris Accumulation and Obstruction) of this SMP.
8. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

## 19.63.802 AQUACULTURE

A. Policies
   1. Encourage aquaculture that supports the recovery of endangered or threatened fish species.
   2. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.
   3. Design and locate aquaculture facilities to minimize impacts to visual access and aesthetic quality of the shoreline.

B. Regulations
   1. Aquacultural facilities must be designed and located to avoid:
      a. The spreading of disease, especially to native aquatic life;
      b. Introducing new non-native species which cause significant ecological impacts;
      c. Significantly conflicting with navigation and other water-dependent uses;
      d. A net loss of ecological functions; or
      e. Significantly impacting the aesthetic qualities of and visual access to the shoreline.
   2. All new uses and developments shall comply with the Environmental Protection regulations in Section 19.63.603(B).
   3. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, and commercial navigation. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.
   4. Aquaculture structures and activities that do not require a waterside location must be located landward of the shoreline management buffers required by this SMP.

## 19.63.803 BOATING FACILITIES AND RESIDENTIAL MOORAGE STRUCTURES

A. Policies
   1. Give boating facilities and residential moorage structures priority for shoreline location.
   2. Design and construct boating facilities and residential moorage structures to result in no net loss of ecological functions.
   3. Give preference to boating facilities and residential moorage structures that minimize the amount of shoreline modification, in-water structure, and overwater cover. In support of this, community and joint-use structures are encouraged.
   4. Ensure new boating facilities and residential moorage structures are located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible adjacent uses are present. Such facilities should be coordinated with applicable local, state and federal plans

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and, where feasible, collocated with other compatible water-dependent uses to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.

5. Ensure boating facilities and residential moorage structures are located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to navigation; and impacts to public access to theshoreline.

B. Regulations

1. Applicability.

   a. This Section applies to all over- and in-water structures and uses that facilitate as their primary purpose the launching or mooring of vessels, or serve some other water-dependent purpose.

   b. Uses and modifications covered in this Section include private residential docks (including community docks); docks for commercial, industrial, aquaculture, recreational or public access use; marinas; and boat launches.

2. General regulations.

   a. All new boating facilities shall comply with the Environmental Protection regulations in Section 19.63.603(B).

   b. New docks shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this SMP.

   c. No single-use residential docks may be authorized unless the applicant can demonstrate that reasonable community dock options have been investigated and found infeasible.

   d. For all new residential development of two or more waterfront dwelling units occurring after the effective date of this SMP, only joint-use or community docks may be allowed, unless infeasible.

   e. No more than one private, noncommercial dock is permitted per platted or subdivided shoreline lot or unplatted shoreline tract owned for residential or recreational purposes.

   f. Floating and other over-water homes, including liveaboards, are prohibited

   g. Extended moorage on waters of the state without a lease or permission is prohibited except as allowed by applicable state regulations. When allowed per state regulations and this SMP, mitigation of any adverse impacts to navigation and public access is required.

   h. Overwater structure design, construction, and use must:

      i. Minimize degradation of aquatic habitats.

      ii. Not impede any juvenile or adult salmonid life stage, including migration, rearing, and spawning.

      iii. Not enhance habitats used by potential salmonid predators (especially fishes and birds).

      iv. Be engineered or use proven methods to maximize human safety and minimize potential for flood-related detachment of the facility from shore.

   i. Consistent with requirements for mitigation sequencing (19.63.603(B)(4)), all boating facilities and private moorage structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

3. General location regulations. New and expanded boating facilities and private moorage structures must be located to:

   a. Minimize hazards and obstructions to public navigation rights.

b. Avoid blocking or obstructing lawfully existing or planned public shoreline access.

c. Minimize the need for new or maintenance dredging.

d. Eliminate the need for new shoreline stabilization, if feasible. Where the need for stabilization is unavoidable, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft may be allowed.

4. General materials regulations.

   a. Boating facilities and private moorage structures shall be built with materials that will not adversely affect water quality or aquatic plants and animals over the long term.

   b. Any treated wood located waterward of the OHWM shall be treated per American Wood Protection Association standards and the Western Wood Preservers Institute's latest edition of "Best Management Practices for the Use of Treated Wood in Aquatic Environments."

   c. Materials and any chemicals treatments used for submerged portions, decking, and other components that may come into contact with water shall be approved by applicable state agencies for use in water.

5. General design and operation regulations.

   a. Piers and ramps.

      i. To prevent damage to shallow-water habitat, piers and/or ramps shall extend at least 40 feet perpendicular from the OHWM, unless determined to be impractical due to specific site considerations.

      ii. Piers and ramps shall be the minimum size necessary to achieve their intended purpose.

      iii. The bottom of both the pier or landward edge of the ramp shall be elevated at least 2 feet above the plane of OHWM.

      iv. Grating shall cover the entire pier and ramp for residential structures, and as much area as practicable for other structures. Open areas of grating shall be at least 50 percent, as rated by the manufacturer, unless determined to be infeasible due to specific site or project considerations.

   b. Floats.

      i. Floats shall not be located in shallow-water habitat where they could ground or impede the passage or rearing of any salmonid life stage.

      ii. To prevent damage to shallow-water habitat, floats shall be positioned at least 40 feet horizontally from the OHWM but no more than 100 feet from the OHWM, as measured from the landward-most edge of the float, unless determined to be impractical due to specific site considerations.

      iii. Grating shall cover the entire surface area of the float(s) not underlain by float tubs or other material that provides buoyancy. The open area of the grating shall be a minimum of 50 percent, as rated by the manufacturer, or as otherwise required by state or federal agencies during permit review unless determined to be infeasible due to specific site or project considerations.

      iv. Functional grating will cover no less than 50 percent of the float, or as otherwise required by state or federal agencies during permit review, unless determined to be infeasible due to specific site or project considerations.

      v. Floating docks shall be designed or seasonally removed to prevent the dock from resting on the river bed during periods of lower flow.

      vi. Flotation materials shall be permanently encapsulated to prevent breakup into small pieces and dispersal in water.

   c. No new skirting is allowed on any structure without verification of approval by appropriate state and federal agencies.

d. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

e. Safety railings, if proposed, must meet International Building Code requirements and must be an open framework that does not unreasonably interfere with shoreline views.

f. Boating facilities and private moorage structures must be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night.

g. Exterior finish of all structures must be generally non-reflective, to reduce glare.

h. New covered moorage is prohibited, except when necessary for operation of a water-dependent use at commercial, industrial, or transportation-related facilities.

i. Shoreline armoring (i.e. bulkheads, rip-rap, and retaining walls) shall not occur in association with installation of the overwater structure, if feasible.

j. Nothing shall be placed long term on the overwater structure that will reduce natural light penetration through the structure.

k. Pilings.

   i. New piling for residential docks shall not exceed 8 inches in diameter, except where larger pilings are required for safety or site-specific engineering reasons. New piling for other docks must be the smallest diameter necessary.

   ii. All pilings shall be fitted with devices to prevent perching by piscivorous (fish-eating) birds.

6. General construction regulations.

   a. Construction of overwater structures shall be completed during allowed in-water work windows.

   b. Construction impacts shall be confined to the minimum area needed to complete the project.

   c. The boundaries of clearing limits associated with site access and construction shall be flagged to prevent ground disturbance of riparian vegetation, wetlands, and other sensitive sites. This action shall be completed before any significant alteration of the project area.

   d. All temporary erosion controls shall be in place and appropriately installed downslope of project activities until site restoration is complete.

   e. Any large wood, native vegetation, topsoil, and/or native channel material displaced by construction shall be stockpiled for use during site restoration.

   f. No existing habitat features (i.e., wood, substrate materials) shall be removed from the shoreland or aquatic environment without approval.

   g. If native vegetation is moved, damaged, or destroyed, it shall be replaced with a functionally equivalent native species during site restoration.

   h. Project construction shall cease under high flow conditions that could result in inundation of the project area, except for efforts to avoid or minimize resource damage.

   i. Temporary moorages are allowed for vessels used in the construction of boating facilities provided:

      i. Upon termination of the project, the aquatic habitat in the affected area is returned to its pre-construction condition within one year.

      ii. Construction vessels may not ground or otherwise disturb substrates.

      iii. Temporary moorage is located to minimize shading of aquatic vegetation.

7. Private residential dock (including community dock) regulations.

   a. Residential and community docks are only permitted on the County's shoreline lakes; these structures are not permitted on the Snake River or other shoreline streams and rivers in Whitman County, unless authorized by the applicable state and federal agencies.

b. No boat lifts or watercraft lifts of any type will be placed on, or in addition to, the overwater structure unless the applicant can demonstrate that the proposed boat lift meets the intent of the criteria to minimize structure, maximize light penetration, and maximize depth.

c. Piers and ramps shall be no more than 4 feet in width.

d. Shoreline concrete anchors must be placed at least 10 feet landward from the OHWM, if feasible. Shoreline concrete anchors must be sized no larger than 4 feet wide by 4 feet long unless demonstrated insufficient. The maximum anchor height shall be only what is necessary to elevate the bottom of either the pier or landward edge of the ramp at least 2 feet above the plane of OHWM.

e. Float components for private docks shall not exceed the dimensions of 8 feet by 20 feet, or an aggregate total of 160 square feet. Float components for community docks shall not exceed the dimensions of 8 feet by 40 feet, or an aggregate total of 320 square feet, for all float components.

f. Piling and float anchors.

   i. Pilings shall be spaced at least 18 feet apart on the same side of any component of the overwater structure. The pier/ramp and float are separate components.

   ii. Each overwater structure shall utilize no more than 4 piles total for the entire project. A combination of two piles and four helical anchors may be used in place of four piles.

   iii. Submerged float anchors will be constructed from concrete; and shall be horizontally compressed in form, by a factor of 5 or more, for a minimum profile above the stream bed (the horizontal length and width will be at least 5 times the vertical height).

g. No in-water fill material (including uncured concrete or its by-products) will be allowed, with the exception of pilings and float anchors.

8. Docks for commercial, industrial, aquaculture, recreational or public access use.

   a. The amounts of overwater cover, including length and width; the number of in-water structures; and the extent of any necessary shoreline stabilization or modification must be minimized.

   b. Accessory development may include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where these are necessary to support the water-oriented use. Nonwater-dependent accessory uses must be located outside of shoreline jurisdiction or outside of the shoreline buffer whenever possible.

   c. Garbage or litter receptacles must be provided and maintained by the operator at locations convenient to users.

9. Marinas.

   a. No part of a marina may be wider than 8 feet, except that components up to 10 feet wide may be approved administratively if justified in documentation.

   b. New marinas must provide physical and/or visual public access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal.

   c. New marinas must provide adequate restroom and sewage disposal facilities.

   d. New or enlarged marinas must provide facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan.

   e. Marina operators must post all regulations pertaining to handling, disposal and reporting of waste, sewage, fuel, oil or toxic materials where all users may easily read them. Rules for spill prevention and response must also be posted on site.

10. Boat launch ramps.
    a. New public, commercial, or industrial boat launch ramps may be approved only if they provide public access to waters that are not adequately served by existing access facilities, if use of existingfacilities is documented to exceed the designed capacity, or the ramp is necessary to serve the water-oriented commercial or industrial use.
    b. New private boat launches not for public, commercial or industrial use are prohibited. New
    c. public or commercial boat launch facilities must provide adequate restroom facilities.
    d. Boat launch ramps must be located where there is adequate water mixing and flushing and wherewater depths are adequate to eliminate or minimize the need for dredging or filling. Boat launch ramps must be located to minimize the obstruction of currents, alteration of sediment transport,and the accumulation of drift logs and debris.
11. Replacement of existing boating facilities and private moorage structures. If any of the following are proposed during a five-year period, the project is considered a new facility and must comply with applicable standards for new facilities.
    a. Replacement of the entire facility.
    b. Replacement of 75 percent or more of support piles.
    c. Replacement of 75 percent or more of a boat launch, by area.
12. Modification or enlargement of existing boating facilities and private moorage structures.
    a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.
    b. Enlarged portions of existing boating facilities and private moorage structures must comply with applicable standards for new facilities.
13. Repair of existing boating facilities and private moorage structures.
    a. Repairs to existing legally established boating facilities and private moorage structures are permitted consistent with all other applicable codes and regulations.
    b. All repairs must utilize any material standards specified for new facilities.
14. Mitigation.
    a. Consistent with mitigation sequencing, new or expanded boating facilities and private moorage structures shall be designed to avoid and then minimize impacts, prior to pursuing mitigation.
    b. Mitigation proposals must provide impact mitigation at a minimum one-to-one ratio, by area, using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
    c. For all new or expanded boating facilities and private moorage structures, appropriate mitigation may include one or more of the following measures. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function. Mitigation may not include measures that are already required by regulations.
        i. Removal of any legal existing over- or in-water structures that are not the subject of the application.
        ii. Replacement of areas of existing solid over-water cover with grated material or use of grating on altered structures.
        iii. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.

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~~iii.~~ v.

~~iv.~~ Removal or ecological improvement of hardened shoreline. Improvement may consist of softening the face and toe of the hardened shoreline with soil, gravel and/or cobbles, and/or incorporating vegetation or large woody debris.

~~v.~~ Removal of man-made debris waterward of the OHWM.

~~vi.~~ Placement of large woody material if consistent with local, state and federal regulations.

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~~viii.~~iv. Participation in an approved mitigation program.

15. Submittal requirements. For all new or expanded boating facilities and private moorage structures, applicants must provide:
    a. An assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
    b. A mitigation plan for unavoidable adverse impacts to ecological functions or processes, if applicable.
16. For all new or expanded boating or private moorage facilities, other than private residential moorage facilities, and commercial or industrial structures, applicants must additionally provide an assessment of need and demand. At a minimum, the assessment shall include the following:
    a. Existing approved facilities, or pending applications, within the service range of the proposed new facility and relevant characteristics of those facilities, such as level of use and condition.
    b. The expected service population and relevant characteristics of the population, including any characteristics that justify specific design elements of the proposed facility.
    c. An assessment of existing water-dependent uses in the vicinity and potential impacts to those uses, and a description of proposed mitigation measures, if applicable.

## 19.63.804 COMMERCIAL DEVELOPMENT

A. Policies
1. Give preference first to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction.
2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented or over-water uses should be encouraged to locate inland from the shoreline jurisdiction.
3. Encourage new commercial development to locate in areas where commercial development uses already exist.
4. Ensure that new commercial development does not significantly reduce scenic views in shoreline jurisdiction.
5. Maintain the Port of Whitman County's water-oriented commercial uses as well as attract new commercial development in appropriate locations along the shoreline.

B. Regulations
1. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP.
2. Preference shall be given first to water-dependent commercial uses over nonwater-dependent commercial uses. Preference shall be given second to water-related uses and water-enjoyment uses over nonwater-oriented uses.
3. Commercial use that is not water-dependent shall not be allowed over water except where it is located within an existing building or where it is accessory to a water-dependent use.
4. Nonwater-oriented commercial development shall be prohibited unless they meet one of the following criteria:
    a. The use is part of a mixed-use project that includes water-dependent uses and provides a



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significant public benefit with respect to provision of public access or ecological restoration; or

b. Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access or ecological restoration.

5. In areas of the shoreline designated for commercial uses, nonwater-oriented commercial uses may be allowed on sites physically separated from the shoreline by another property or public right-of-way.

6. New commercial developments shall provide public access to the shorelines.

7. Commercial development shall comply with the Environmental Protection regulations of Section 19.63.603(B) and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

## 19.63.805 FOREST PRACTICES

A. Policies

1. Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to non-forest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system.

B. Regulations

1. Conversion to other use. Preparatory work associated with the conversion of land to non-forestry uses and/or developments shall be consistent with the following performance standards:

   a. Limit the conversion to the minimum necessary to accomplish the purpose and intent of the shoreline use environment, general policies and regulations, and specific shoreline modification and use policies on the subject property.

   b. Ensure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

2. State and local forest practice regulations. All forest practices, including forest conversions, undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the County.

3. General Tree Management. Forest management activities that minimize the potential for catastrophic wildfires and hazard tree removal are allowed consistent with any applicable state and local forest practice regulations and Section 19.63.604 (Shoreline Vegetation Conservation).

4. Selective cutting – Shorelines of Statewide Significance. Within shoreline jurisdiction along Shorelines of Statewide Significance, only selective commercial timber cutting may be permitted so that no more than thirty percent (30%) of the merchantable timber may be harvested in any 10-year period; provided that, other timber harvesting methods may be permitted with a Shoreline Conditional Use Permit in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

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## 19.63.806 IN-STREAM STRUCTURAL USES

A. Policies

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

B. Regulations

1. In-stream structures shall comply with the Environmental Protection regulations in Section 16.63.603(B) and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (19.63.603(B)(4)), all structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.
2. The applicant must obtain all other state, local and federal permits required for in-stream structures in addition to the requirements of this SMP.
3. In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
4. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.
5. In-stream structures shall not be a safety hazard or obstruct water navigation.
6. In-stream structures shall be designed by a qualified professional.
7. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.

## 19.63.807 MINING

A. Policies

1. Demonstrate that all mining proposals in shoreline jurisdiction are dependent on a shoreline location.
2. Ensure mining activities are sited, designed, conducted, and completed to result in no net loss of shoreline ecological functions and processes.
3. Give preference to mining proposals that result in the creation, restoration or enhancement of habitat for priority species.

B. Regulations

1. All mining proposals in shoreline jurisdiction must demonstrate that the mining is dependent on a shoreline location by evaluating geologic factors such as the distribution and availability of



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mineral resources in the County, as well as evaluation of need for such mineral resources, economic, transportation, and land use factors.

2. Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).
3. New mining and associated activities shall be designed and conducted to comply with the regulations of the environment designation and the provisions applicable to critical areas where relevant. Meeting the no net loss of ecological functions standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation.
4. Mining waterward of the OHWM of rivers and streams shall not be allowed unless:
   a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the system as a whole;
   b. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.
   c. Determinations required by the above requirements must be made consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (RCW 43.21C) and the SEPA rules (WAC 197-11).
   d. In considering renewal, extension, or reauthorization of other mining operations waterward of the OHWM in locations where they have previously been conducted, the County must require compliance with this Subsection to the extent that no such review has previously been conducted. Where there has been prior review, the County must review previous determinations comparable to the requirements of this Section to assure compliance with this Subsection under current site conditions.
5. The proposed subsequent use of mined property must be consistent with the environment designation in which the property is located and the reclamation of disturbed shoreline areas must provide appropriate ecological functions consistent with the setting.

## 19.63.808 PORTS AND INDUSTRIAL DEVELOPMENT

A. Policies

1. Recognize the importance of industrial uses to Whitman County and attract water-oriented uses for location in appropriate areas along the shoreline.
2. Recognize the Port of Whitman County's Comprehensive Plan goals and planned improvements for the Wilma Site, Almota Site, Central Ferry Site, Pullman Industrial Park, Boyer Park & Marina, and other off-water industrial development.
3. Acknowledge the importance of the Port of Whitman County's use of the waterfront and its desire to balance economic development with environmental stewardship, while encouraging an economical multi-modal transportation system that serves agriculture, commerce and industry (Port of Whitman County Comprehensive Plan, 2010-2015).
4. Support efforts by the Port to retain existing and attract new water-oriented industrial uses in appropriate locations along the Snake River shoreline where industrial uses are primarily located at the Port of Whitman County's on-water facilities.
5. Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines and other State and County requirements.

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6. Ensure that existing and new development of industrial facilities is consistent with all Master Program Guidelines and achieves no net loss of shoreline ecological function.

B. Regulations

1. Docks, piers, and boating facilities necessary for operation of ports and water-related or water-dependent uses shall be permitted in accordance with the provisions of this SMP.
2. Industrial facilities and port uses that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.
3. Industrial and port development shall be in accordance with the following regulations:
   a. Industrial and port development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.
   b. In the review of shoreline developments, the County shall give preference to water-dependent uses and then water-oriented industrial uses, in accordance with WAC 173-26-241(3)(f).
   c. Regional and statewide needs for water-dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.
   d. Industrial development shall consider incorporating public access as mitigation unless providing public access will result in significant interference with operations or hazards to life or property as a result of the use of the property.
   e. Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 19.63.609(B)(6).
   f. Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.
4. In accordance with WAC 173-26-241(3)(f), new nonwater-oriented industrial development shall be prohibited on shorelines except when:
   a. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.
   b. Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.
   c. The nonwater-oriented industrial use is physically separated from the shoreline by another property or public right of way.

## 19.63.809 RECREATIONAL DEVELOPMENT

A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between local, state and federal parks departments; Army Corps of Engineers; and Port officials.
2. Recognize the importance of shoreline resources in planning for water-oriented uses in the shoreline jurisdiction of the County.



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Provide shoreline recreational development that is given priority and is primarily related to accessto, enjoyment and use of the water and shorelines of the state.

4. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results
5. Provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions and comply with the Environmental Protection regulations of Section 19.63.603.
2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with County development standards.
3. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.
4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park or open space areas and trail access.
5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 19.63.804 (Commercial Development).

## 19.63.810 RESIDENTIAL DEVELOPMENT

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A. Policies

1. Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.
2. Residential development in Whitman County should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function.
3. Residential development should aim to minimize environmental impact through ecological restoration and measures such as low impact development and vegetation conservation and enhancement.
4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.
5. Prohibit new floating homes and liveaboards.

B. Regulations

1. New residential lots created through land division shall be in accordance with the following:
   a. Comply with all applicable subdivision and zoning regulations and be consistent with applicable SMP environment designations and standards. .
   b. Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of lots.

c. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

2. Residential development, including accessory uses and appurtenant structures, shall be in accordance with the following:
   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.
   b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.
   c. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.
   d. ~~In accordance with WAC 173-26-241(j), new floating homes and liveaboards shall be prohibited.~~
3. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use.
4. All new residential developments and subdivisions shall comply with the Shoreline Stabilization regulations in Subsection 19.63.906(B)(1) and the Environmental Protection regulations in Section 19.63.603(B).
5. New over-water residential developments are prohibited. Existing floating on-water residences legally established and moored within a marina within Whitman County prior to July 1, 2014 are considered a conforming use and should be accommodated through reasonable permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable. All replacements, and remodels which add one hundred twenty square feet or more to the living space, must require on-board gray-water containment or a waste-water connection that disposes of the gray water to a waste-water disposal system.~~.~~

## 19.63.811 TRANSPORTATION AND PARKING

A. Policies
   1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.
   2. Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.
   3. Promote additional trail connections that are consistent with local and regional plans.
   4. Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing and proposed shoreline uses that are consistent with this SMP.

B. Regulations
   1. Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:

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a. Minimize possible adverse effects on unique or fragile shoreline
b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.
c. Set back from the OHWM to the maximum distance feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal (the shoreline buffer requirement would add more than 20% to the total project cost).

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2. Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:
   a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.
   b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.
   c. Observe all regulations regarding critical areas and shoreline buffers.
   d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
3. Public roads within the shoreline jurisdiction shall, where possible, provide and maintain visual access to scenic vistas, including, but not limited to, turnouts, rest areas, and picnic areas.
4. Shoreline crossings and culverts shall be designed to mitigate impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.
5. Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings.
6. Transportation proposals shall be consistent with circulation system plans for roads, railroads, pedestrian, bicycle, and public transportation. The SMP Administrator shall condition transportation proposals to be consistent with applicable county, city, state, or federal plans and construction standards, as appropriate.
7. The provisions of Section 19.63.707 (Frequently Flooded Areas) shall be addressed in the design of transportation facilities.
8. Public access standards in Section 19.63.608 shall be met.
9. If an applicant proposes to pave a roadway or parking area, the proposal shall comply with applicable water quality, landscaping, stormwater, and other applicable requirements of this SMP and the Whitman County Code or any locally applicable regulations.
10. When a new or expanded roadway or new or expanded parking facility is proposed, the County may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no net loss of shoreline ecological function, including but not limited to restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline buffers or critical areas and their buffers.

## 19.63.812 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.
2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.
2. Utility projects within shoreline jurisdiction shall be designed to achieve no-net-loss of shoreline ecological function, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
3. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
4. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.
5. Development of pipelines and cables in shoreline jurisdiction, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no otherfeasible alternative exists. When permitted, provisions shall assure that the facilities do not resultin net loss of shoreline ecological functions or significant impacts to other shoreline resources andvalues.
6. Existing utility services routed through shoreline areas shall not be a sole justification for more intense development.

## 19.63.813 REDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

A. Policies

1. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Section 19.63.200 (Definitions, “Maintenance, normal” and “Repair, normal”). Unless significant alterations or significant adverse impacts to the shoreline ecological function will occur as a result of this activity, the activity may be eligible for exemption from a Shoreline Substantial Development Permit.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.
2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the



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standards of this SMP.

3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:
   a. The SMP Administrator shall determine the extent of compliance with SMP provisions.
   b. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

# 19.63.900 Shoreline Modification Policies and Regulations

## 19.63.901 GENERAL REQUIREMENTS

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an alloweduse or development.
2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. As much as possible, the number and extent of shoreline modifications shall be limited.
3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (See Section 19.63.603(B)(4)). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.
5. Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.
6. All feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur shall be incorporated.

## 19.63.902 BREAKWATERS, JETTIES, WEIRS, AND GROINS

A. Policies

1. Allow breakwaters, jetties, weirs and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.

B. Regulations

1. New, expanded or replacement structures shall only be allowed if it can be demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.



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2. Breakwaters, jetties, weirs and groins shall be limited to the minimum size necessary.
3. Breakwaters, jetties, weirs and groins must be designed to protect critical areas, and shallimplement mitigation sequencing to achieve no net loss of ecological functions.
4. Proposed designs for new or expanded structures shall be designed by qualified professionals,including both an engineer and a biologist.

## 19.63.903 PERMIT REQUIREMENTS AND THE LEVEL OF APPROVAL REQUIRED IS REGULATED BY TABLE 4.10-1 IN SECTION 4.10.DREDGING AND DREDGE MATERIAL DISPOSAL

A. Policies
1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

B. Regulations
1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Section (4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.
2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. Dredging may only be permitted for the following activities:
   a. Development of new or expanded wet moorages, harbors, ports or water-dependent industries of economic importance to the region only when there are no feasible alternatives or other alternatives may have a greater ecological impact.
   b. Development of essential public facilities when there are no feasible alternatives.
   c. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
   d. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
   e. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.
   f. Establishing, expanding, relocating or reconfiguring navigation channels where necessary toassure safe and efficient accommodation of existing navigational uses.
   g. Maintenance dredging of established navigation channels and basins when restricted to maintaining previously dredged and/or existing authorized location, depth, and width.



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5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.
6. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:
    a. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
    b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
7. Dredge material disposal in open waters may be approved only when authorized by applicable state and federal agencies, and when one of the following conditions apply:
    a. Land disposal is infeasible, less consistent with this SMP, or prohibited by law.
    b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.
8. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:
    a. A description of the purpose of the proposed dredging activities.
    b. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.
    c. A description of proposed dredging operations, including, but not limited to:
        i. The method of removal.
        ii. The length of time required.
        iii. The quantity of material to be initially removed.
        iv. The frequency and quantity of projected maintenance dredging.
    d. A description of proposed dredge material disposal, including, but not limited to:
        i. Size and capacity of disposal site.
        ii. Means of transportation to the disposal site.
        iii. Future use of the site and conformance with land use policies and regulations, if applicable.
    e. Plans for the protection and restoration of the shoreline environment during and after dredging operations.
    f. An assessment of potential impacts to ecological functions or processes from the proposal.
    g. A mitigation plan to address identified impacts, if necessary.

## 19.63.904 FILL AND EXCAVATION

A. Policies
1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.
2. Encourage fill when it is associated with restoration projects.
3. Allow upland excavation only when necessary to support a use or modification otherwise allowed by this Shoreline Master Program.



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B. Regulations

1. All fills and excavations shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (See Subsection 19.63.603(B)(3)).
2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when necessary to support one or more of the following:
    a. Water-dependent uses.
    b. Public access.
    c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.
    d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.
    e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.
    f. Ecological restoration or enhancement when consistent with an approved restoration plan.
    g. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan prepared by an engineer licensed in the state of Washington and this SMP.
    h. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.
3. Upland fills and excavation in shoreline jurisdiction that are not located within wetlands, floodways, or channel migration zones may be allowed provided they are:
    a. Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.
    b. Located outside applicable buffers, unless specifically allowed in buffers.
4. All fills and excavations, except fills and excavations for the purpose of shoreline restoration, must be designed:
    a. To be the minimum size necessary to implement the allowed use or modification.
    b. To fit the topography so that minimum alterations of natural conditions will be necessary.
    c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.
5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.
6. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the latest edition of the County-adopted Stormwater Management Manual for Eastern Washington (2004) or approved equivalent, shall be provided for all proposed fill and excavation activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

## 19.63.905 SHORELINE RESTORATION AND ENHANCEMENT

A. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by state and federal agencies, affected tribes, local conservations districts, or other non-governmental organizations with a focus on restoration and enhancement.
2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the County or other entities.
4. Develop application processing guidelines that will streamline the review of restoration-only projects.
5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

B. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.
2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.
3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.
6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the County to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

## 19.63.906 SHORELINE STABILIZATION

A. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.



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2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.
3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.
4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.
5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

B. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.
    a. Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.
    b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.
2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows
    a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.
    b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
        i. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
        ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
        iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.
    c. In support of water-dependent development when all of the conditions below apply:
        i. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.

ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.

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

d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

b. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization

materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

c. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

   a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

   b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

   c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

   a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

      i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

      ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

      iii. An assessment of alternative measures to shoreline stabilization.

      iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

      v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

   b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

      i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

      ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

      iii. An assessment of alternative measures to shoreline stabilization.

      iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

# Exhibit A: Shoreline Maps

# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Rachel Granrath, Malissa Paulsen, and Justen Scholle SCJ Alliance | Whitman County | 1/9/2023 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended **floating on-water residences** provisions | 19.63.803, B, 2, f<br>Floating and other over-water homes, including liveaboards, are prohibited. | Ecology language for prohibited residential developments in section 19.63.810 (B) (5)<br>Definition updated for Houseboat or floating home |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | 19.63.306, C references RCW 90.58.147 | Could use inclusion of example language for clarity<br>✓ **Added 19.63.306,C, 2.** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | 19.63.306, C does not specify cost threshold exemption.<br>19.63.803 dock specifications detailed but no mention of threshold. | Needs updated to include newest threshold.<br>✓ **Added 19.63.306,C,3** |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to **$8,504**. | Pg. 22. Currently at $6,416 | Needs updated to include newest threshold.<br>✓ **changed to 7,047**<br>**Changed to $8,504 (ECY 7/1 Threshold)** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Definition does not mention dismantling or removing structures. Contains DOE example language. | Could use inclusion of clarifying language.<br>**Added language to definition of development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | RCW 90.58.355 mentioned within Definitions, Exempt,Pg. 10 & 19.63.306, C, Pg. 28. | Inclusion of DOE example language could help clarify updates.<br>✓ **Added 19.63.306, C,4** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | "date of filing" mentioned within 19.63.303, E. "date of receipt" no where in SMP<br>19.63.306, I, references WAC 173-27-190 | Inclusion of DOE example language could clarify requirements.<br>No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | 19.63.805 does not include this exemption | Needs update to include DOE example language.<br>✓ **Added 19.63.306, C,5** |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | 19.63.306, D,1,a mentions exemptions for Federal but not regarding federal lands | Update needed to include DOE example language.<br>✓**Added DOE Example language under 19.63.105,C,6** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | 19.63.307 & Definitions Pg 16 both have "uses" & "structures" combined | Update needed to both sections to separate these to align with DOE examples.<br>✓**Separated definitions on Pg. 16**<br>**Separated sections under 19.63.307** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language<br>✓ **Added 19.63.306, C,6** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Section 19.63.703 of SMP references Eastern Washington rating system. | No changes needed |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | 90.58.140 referenced under 19.63.306 | No Action Required unless further clarification is wanted such as DOE example language.<br>**Added 19.63.303, A, 1** |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined | No Action Required |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under 'Wetland edge' definition. | No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines in County. | No Action Needed |
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | 19.63.803, B, 2, f<br>Floating and other over-water homes, including liveaboards, are prohibited. | No Action Needed |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | 19.63.307, D, 5 contains appropriate language | No Action Needed |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language | No Action Needed |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language | No Action Needed |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language | No Action Needed |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language | No Action Needed |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with

coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☒ | Yes | No changes that trigger SMP updates |
| | ☐ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☒ | Yes | 19.63.503, F, 1 references Ordinance #077123 and states current maps are available for review in the Planning Department. Draft codes also under review |
| | ☐ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☐ | Yes | |
| | ☒ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
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## Changes to local circumstance, new information, or improved data

| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

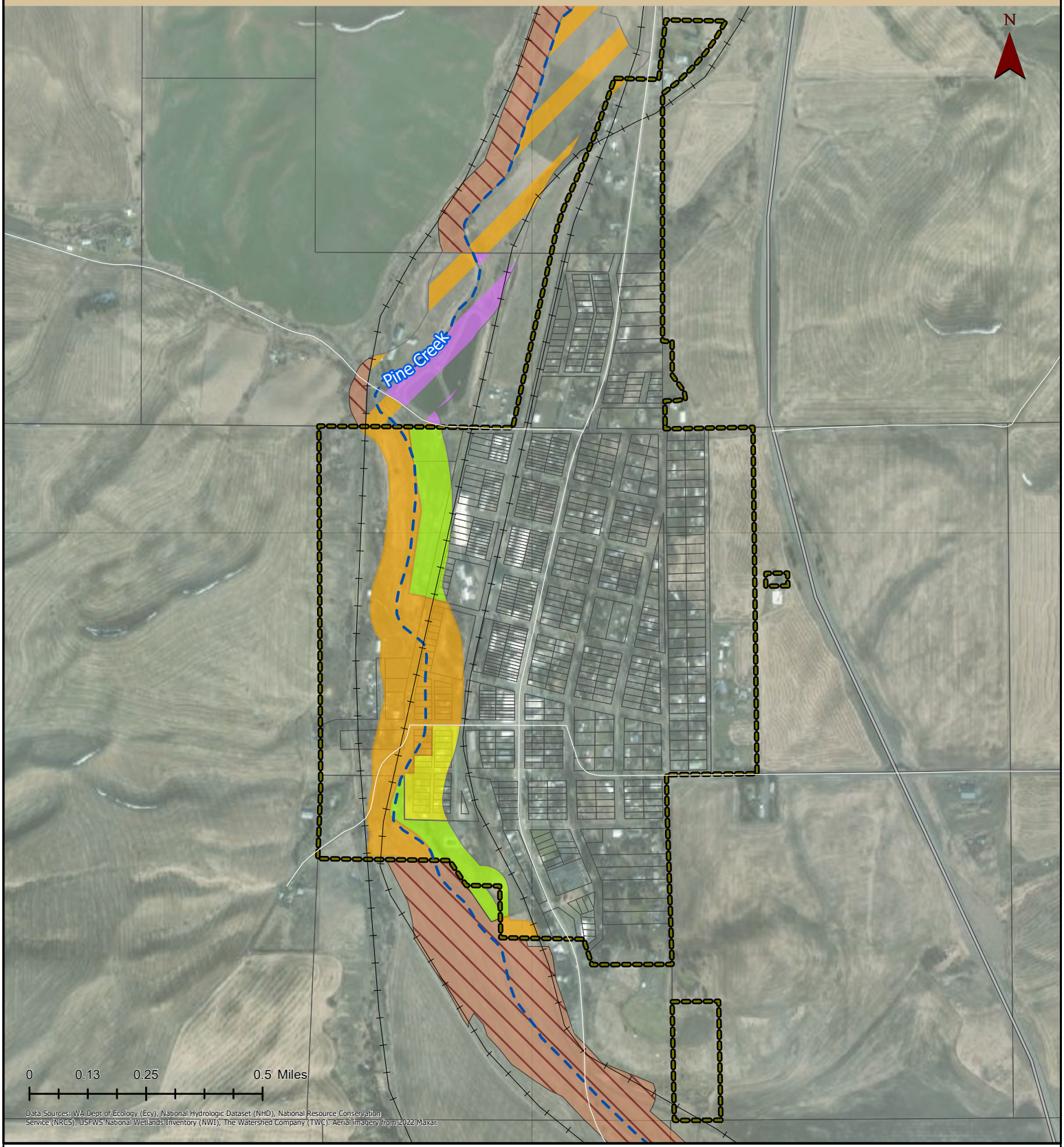
If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
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# Town of Rosalia

## Official Shoreline Maps




SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Rural Conservancy
- Urban Conservancy
- Rural Industrial/Port
- Shoreline Parks
- Town Limits
- Whitman Parcels



# TOWN OF ROSALIA

# SHORELINE MASTER PROGRAM

Adopted Ord. XX
Approved by Ecology XX
Effective XX
Periodic Update Working Draft: January 11, 2023

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# Reader's Guide

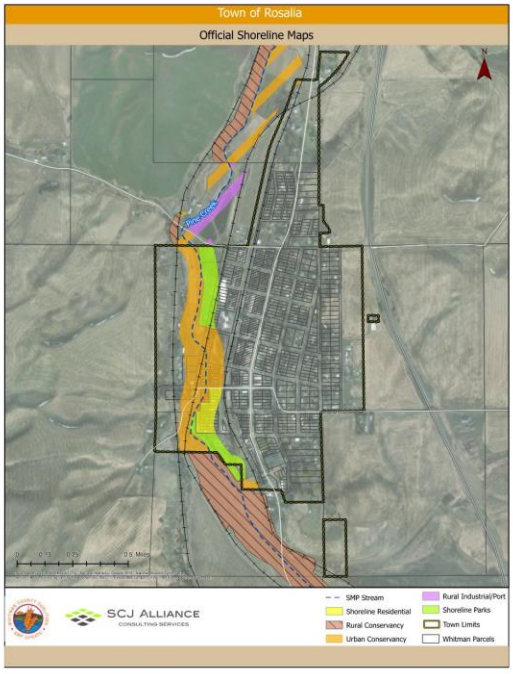
## *The Shoreline Management Act and the Town of Rosalia's SMP*

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses. The Town developed and adopted its first Shoreline Master Program (SMP) in 1974 as part of a regional effort with Whitman County. That SMP was developed almost 40 years ago and since then there has been some change along the Town's shoreline. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules. Therefore, in accordance with the SMA, the Town has prepared this SMP to guide and manage its shoreline.

The Town of Rosalia SMP contains goals, policies, regulations, and a shoreline environment designation map that guide the development of shorelines in accordance with the SMA (Revised Code of Washington [RCW] 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (Washington Administrative Code [WAC] 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The goals and policies of Rosalia's SMP, approved under chapter 90.58 RCW, create a framework for the regulations of the SMP. They provide guidelines for future decision making and future development of lands within the Town's SMP jurisdiction boundaries.

All regulatory elements of this SMP, including, but not limited to, definitions and use and modification regulations, are considered a part of the Town's development regulations.




## A. *Shoreline Jurisdiction*

In accordance with state laws and rules, the jurisdiction of the Town of Rosalia's SMP encompasses Pine Creek, land within 200 feet of the ordinary high water mark (OHWM), its floodway, contiguous 100-year floodplain extending up to 200 feet inland of the floodway, and associated wetlands.

## B. *Applicability and Exemptions*

The SMP applies to all proposed uses and development occurring within shoreline jurisdiction. This SMP does not apply to certain activities that do not alter structures or properties, such as interior building



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changes or routine gardening. It also does not apply to



legally established uses already on the land such as existing agriculture, existing residences, and other existing uses, structures, and activities. See Section 1.5 for a complete description of SMP applicability.

There are also activities that are exempt from the Shoreline Substantial Development Permit system. These activities are subject to the standards of the SMP, but are not required to submit fees and other materials associated with Shoreline Substantial Development Permits.

Common exemptions include, but are not limited to:

- Normal maintenance or repair of existing structures or developments
- Bulkheads common to single-family residences
- Emergency construction necessary to protect property from damage
- Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures
- Construction of a single-family residence

Exemptions are fully described and listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, as amended. See Section 7.6 for additional information on exemptions.

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### C. How to Read and Apply this SMP

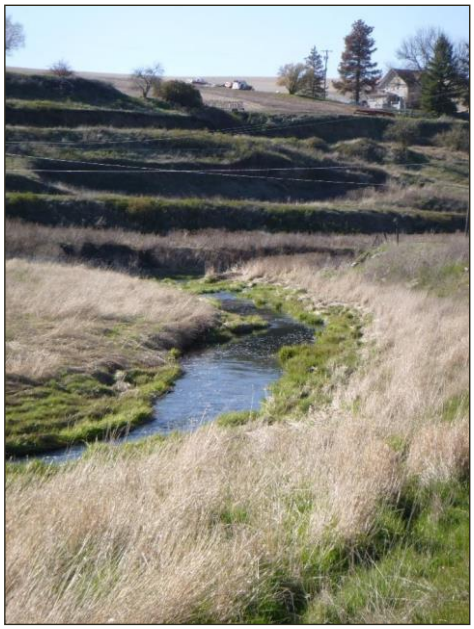
When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the SMP Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this SMP and the Act.

In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations. Additional definitions are located in Appendix A.

For informational purposes, the flow chart below (Figure RG-1) illustrates how an applicant could navigate the regulations to determine if and how they apply to a particular project and property. In addition to approval from the Town of Rosalia, any shoreline development or construction project may also require a permit or approval from the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and/or the Washington Department of Natural Resources, among others.

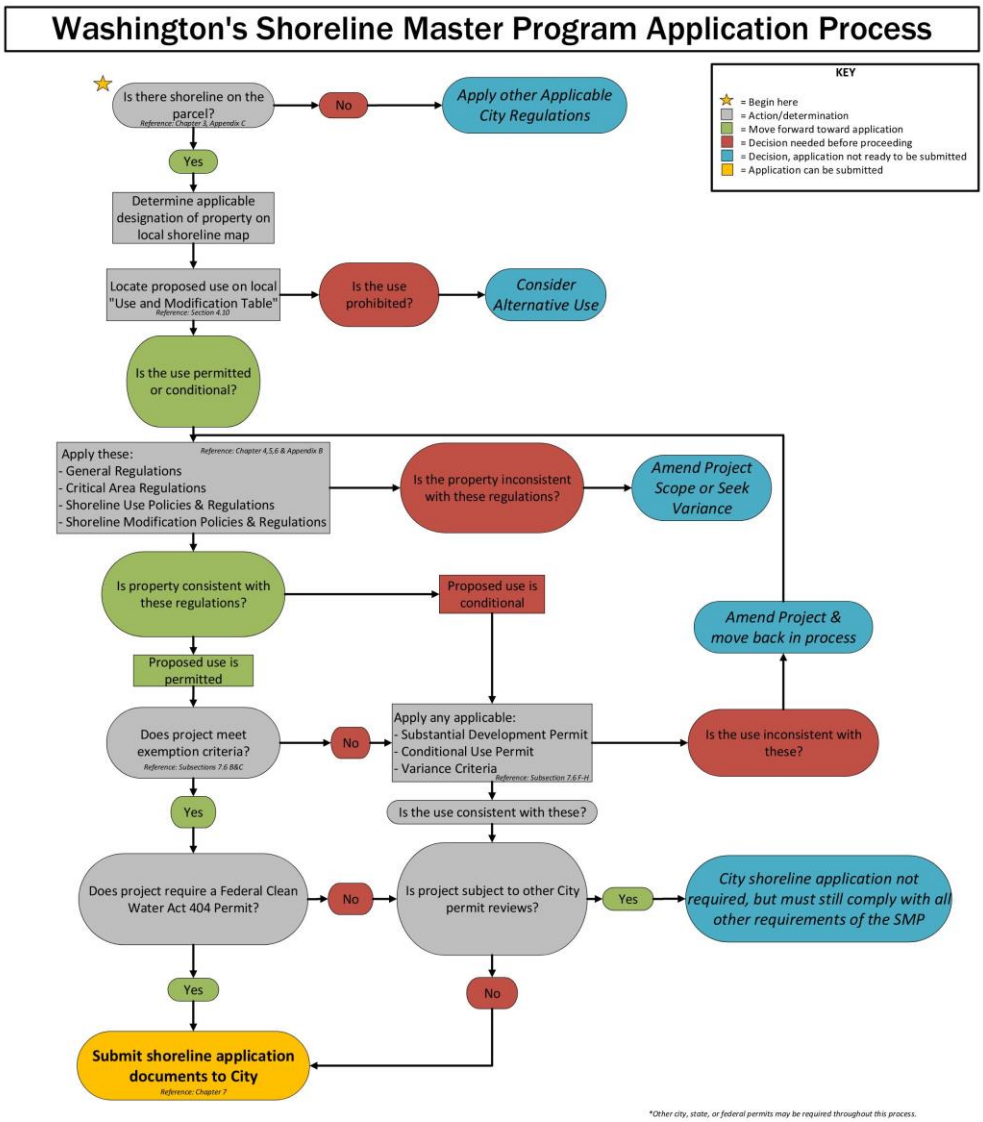
### *D. Document Organization*



The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other Town planning documents, such as the Rosalia Municipal Code (RMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within shoreline jurisdiction.
- Chapter 4. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Use Policies and Regulations: Establishes policies and regulations for specific uses in shoreline jurisdiction.
- Chapter 6. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.
- Chapter 7. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.
- Appendix A. Definitions: provides definitions for terms used throughout the SMP.
- Appendix B. Shoreline Critical Area Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.
- Appendix C. Shoreline Environment Designations Map. Contains the Official Shoreline Map illustrating the environment designations for shoreline jurisdiction in the Town of Rosalia.

Figure RG-1. Shoreline Application Process Flow Chart.



# 1. Introduction

## 1.1 TITLE

This document shall be known and may be cited as the Town of Rosalia Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 1.2 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 1.3 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines...."
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

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

## 1.4 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities.

The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP that are approved under RCW 90.58 shall be considered an element of the Town's comprehensive



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planning, and all regulatory elements of this SMP shall be considered a part of the Town's development regulations.

After the Town's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the Town and approved by Ecology.

## 1.5 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection (C), all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Appendix A (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.
2. Interior building improvements that do not change the use or occupancy;
3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
5. As of the effective date of the SMP, legal pre-existing residential uses and structures where no change or new activity is proposed.
6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 7.6(B) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply Town-wide to all nonfederal uses, activities, and development.

F. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

G. This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 have been met. The Town has predesignated shorelines in its urban growth area. Until annexed, development in these areas shall be regulated by the Whitman County Shoreline Master Program. Once annexed, those properties shall be regulated by the Town of Rosalia Shoreline Master Program.

H. A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a

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determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

### 1.6 LIBERAL CONSTRUCTION

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

### 1.7 SEVERABILITY

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

### 1.8 EFFECTIVE DATE

The SMP is hereby adopted on the 24th of November, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

# 2. Shoreline Vision and Goals

### 2.1 SHORELINE VISION

It shall be the ultimate goal of the Town of Rosalia SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the Town regarding the balanced use of the Town's shorelines.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

### 2.2 SHORELINE GOALS

A. Shoreline Use

1. Promote the best use of the Town's shoreline through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shoreline.

2. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the Town as well as the shoreline environments, habitat, and ecological systems.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the Town's shoreline. Shoreline economic growth and prosperity should take into account the existing rural character of the Town.

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2. Permit those commercial, recreational, and other developments that require a location along the shoreline and which may contribute to the economic well-being of the Town while achieving no net loss of ecological function.

3. Promote new water-dependent, water-related, and water-enjoyment economic development where appropriate, with preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the Town's shoreline.

2. Ensure an adequate supply of safe public access to the Town's shoreline.

3. Encourage that alteration to the natural conditions of the shoreline, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

D. Recreation

1. Protect and expand opportunities for recreation in the Town's shoreline areas, including but not limited to parks and other recreational areas.

2. Encourage and maximize water-oriented recreational opportunities along the shoreline.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the Town's shoreline.

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

3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.

2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

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

I. Flood Hazard Management

Protect the Town from losses and damage created by flooding along the shoreline.

# 3. Shoreline Jurisdiction and Environment Designations

## 3.1 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. In the Town of Rosalia, the only designated shoreline waterbody is Pine Creek.

2. Shorelands, as adopted by the Town of Rosalia and indicated on the Official Shoreline Map available for review in Town Hall, are defined as:

*"those lands extending landward for 200 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…." (RCW 90.58.030)*

The Town of Rosalia will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Map available for review in the Planning Department. The purpose of the Official Shoreline Map is to identify Environment Designations (Section 3.2). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

*"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

*In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the [D]epartment [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

b. Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments

that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

e. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

## 3.2 SHORELINE ENVIRONMENT DESIGNATIONS

A. Aquatic

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

2. Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management Policies:

a. Allow new over-water structures only for water-dependent uses, including public access or ecological restoration.

b. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

d. All developments and uses on shoreline waters or their beds should be located and designed to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

e. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

B. Rural Industrial

1. Purpose: The purpose of the Rural Industrial environment is to provide for high-intensity commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria: Assign a Rural Industrial environment designation to shoreline areas within incorporated municipalities if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity uses.

3. Management Policies

a. Water-oriented commercial, industrial, and recreation uses should be given high priority in the Rural Industrial environment. First priority should be given to water-dependent

uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or for necessary expansion of existing essential public facilities. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

b. When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

c. New development in the Rural Industrial designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d. Where feasible, visual and physical public access should be required as part of development in the Rural Industrial designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

C. Shoreline Residential

1. Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

3. Management Policies:

a. Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

b. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

d. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

D. Shoreline Parks

1. Purpose: The purpose of the Shoreline Parks environment is to:

a. Protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and

b. Ensure appropriate management and development of existing and future public parks and recreation areas.

2. Designation Criteria: Assign a Shoreline Parks environment designation if any of the following characteristics apply:
   a. They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;
   b. They are suitable for water-related or water-enjoyment uses;
   c. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
   d. They have potential for ecological restoration;
   e. They retain important ecological functions, even though partially developed; or
   f. They have the potential for development that is compatible with ecological restoration.
3. Management Policies:
   a. Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
   b. Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.
   c. Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.
   d. Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
   e. Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.
   f. Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.
   g. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

E. Urban Conservancy

1. Purpose: The Urban Conservancy environment is intended to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.
2. Designation Criteria: Specific criteria for designation of the Urban Conservancy environment include areas or properties that:
   a. Lie in the Town limits,
   b. Are planned for development that is compatible with the principals of maintaining or restoring the ecological functions of the area,
   c. Are suitable for water-enjoyment uses,
   d. Are open space or floodplains, or
   e. Are areas that retain important ecological functions which should not be more intensively developed.
3. Management Policies:

a. Allowed uses for the Urban Conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
b. Water-oriented uses should be given priority over nonwater-oriented uses.
c. Development in the Urban Conservancy environment should only be allowed if it would not result in a net loss of shoreline ecological functions, and if significant ecological impacts can be mitigated.
d. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

F. Environment Designation Interpretation

1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Map shall prevail consistent with the following rules:
   a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
   b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.
   c. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.
   d. Boundaries indicated as approximately parallel to or extensions of features indicated in (a), (b), or (c) above shall be so construed.
2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Chapter 7 (Administration and Permitting) of this Master Program and the Town's appeal procedures in RMC 18.68.050 (Appeals of administrative decision). If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).
3. All shoreline areas waterward of the OHWM shall be designated Aquatic.
4. All shoreline areas upland of the OHWM shall be designated Urban Conservancy, Shoreline Residential, Shoreline Parks, or Rural Industrial.
5. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map.

G. Official Shoreline Map and Unmapped or Undesignated Shorelines

1. The Official Shoreline Map at the time of SMP adoption, which illustrates the delineation of shoreline jurisdiction and environment designations in the Town, are available for review in the Planning Department. The Official Shoreline Map shall include the following language: "We hereby certify that this map constitutes the Official Shoreline Map as approved by Ordinance #571 of the Town of Rosalia and signed by its chair dated this 24th of November, 2015." The Official Shoreline Map may be updated administratively or through an SMP amendment as indicated in Subsections (E)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Map when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Map without an SMP amendment.

3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

5. In addition, any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associate wetlands, for example, may be developed at the site-specific scale and site conditions may change over time. Revisions to the Official Shoreline Map may be made as outlined in this Subsection E.5 without an SMP amendment.

# 4 General Policies and Regulations

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## 4.1 INTRODUCTION

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

## 4.2 SHORELINE USE AND DEVELOPMENT REGULATIONS

A. Policies

1. Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.

1. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.

Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.

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

3. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

4. Protect current agricultural uses on agricultural land and provide for new agricultural uses where appropriate so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resource and values.

B. Regulations

1. All uses in the shoreline shall comply with the Town's development code and this Program.

2. The shoreline use and modification table (Table 4.10-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

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

4. To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and

place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).

5. In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

## 4.3 ENVIRONMENTAL PROTECTION

A. Policies

1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the Town's environmental resources (air, ground and surface waters, and indigenous biology).

3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of Town residents.

B. Regulations

1. Ecological Functions. Uses and developments on the Town shoreline must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

2. Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of Appendix B (Shoreline Critical Areas Policies and Regulations).

3. Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 4.3(B)(4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 4.3(B)(4):

   a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or

   b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

   c. When specifically required by regulations contained in this SMP.

4. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 4.3(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

   a. Avoid the impact altogether by not taking a certain action or parts of an action;
   b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
   c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
   d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
   e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
   f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

   a. Removal of native plant communities in shoreline jurisdiction,
   b. Removal of native or non-native trees that overhang the water,
   c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,
   d. Removal or alteration of priority habitats or habitat for priority species,
   e. Construction of new or expanded in- and over-water structures,
   f. Construction of new or expanded shoreline stabilizations,
   g. New discharges of water into Pine Creek that may introduce pollutants,
   h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or
   i. Changes in grading or fill that reduce floodplain capacity.

6. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the Town, but may be voluntarily performed by an applicant. In addition to any requirements found in Appendix B (Shoreline Critical Areas Policies and Regulations), a mitigation plan must include:

   a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
   b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
   c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
   d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;

f. A contingency plan if mitigation fails to meet established success criteria; and

g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

7. Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the

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standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

## 4.4 SHORELINE VEGETATION CONSERVATION

A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Appendix B (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Appendix B (Shoreline Critical Areas Regulations and Policies), Section 5.

3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 4.3 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Rosalia Municipal Code.

4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Rosalia Municipal Code. Mitigation sequencing per Subsection 4.3(B)(4) (Environmental Protection) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The Town may approve modifications or require minor site plan alterations to achieve maximum tree retention.

5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

   a. Removal of native trees, shrubs or groundcovers;
   b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes or stream banks; or
   c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Pine Creek Conservation District, and must contain information required in Subsection 4.3(B)(6). All mitigation trees shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

7. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

8. Invasive species removal.

   a. Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

   b. Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.

      i. Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

      ii. Coordination with Pine Creek Conservation District is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.

      iii. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

      iv. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

   c. Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

## 4.5 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

A. Policies

1. Maintain and improve the water quality and quantity of the Town's shoreline, and preserve surface and groundwater for the beneficial use of the Town's citizens and wildlife over the long term.

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

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

B. Regulations

1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions.

2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

3. Requirements for new development.

   a. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the Town's stormwater management requirements and the use of best management practices. In the absence of Town standards for control of quality and quantity of stormwater runoff, applicants should consult Ecology's Stormwater Management Manual for Eastern Washington for guidance.

   b. Deviations from any Town standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.

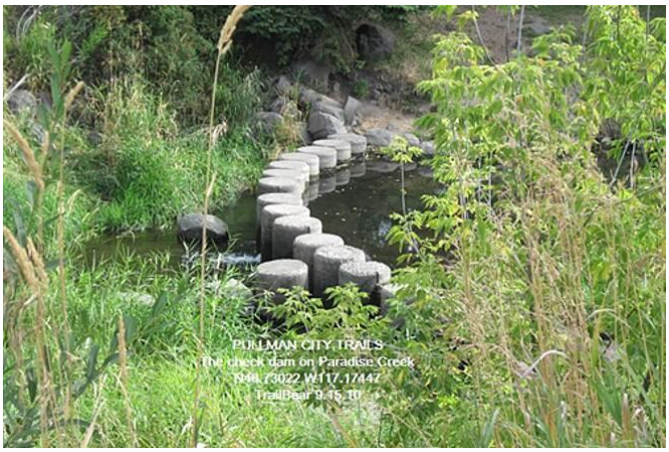
6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

## 4.6 FLOOD HAZARD MANAGEMENT

A. Policies

1. Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

2. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.






3. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

1. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 4.3 (Environmental Protection) and Section 6 (Frequently Flooded Areas) of Appendix B, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review at Town Hall. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

3. The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 6 (Frequently Flooded Areas) of Appendix B:

   a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

   b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

   c. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

   d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs[1]. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

   e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures

[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]

include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

f. Water-dependent installations which by their very nature must be in the floodway.

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

h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

i. Uses and developments allowed in the floodway under Section 6 (Frequently Flooded Areas) of Appendix B, provided they are otherwise consistent with all provisions of this SMP.

4. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

6. New public and private structural flood hazard reduction measures:

a. Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

i. That they are necessary to protect existing development;

ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

v. That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

b. Shall be consistent with an approved comprehensive flood hazard management plan.

c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing Town-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 6.3 (Dredging and Dredge Material Disposal) and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## 4.7 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

A. Policies

1. Regulate archaeological, historic, and cultural resources.

2. Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

B. Regulations

1. Permits issues in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:

   a. The project will be exempt if an of the following are met:

      i. Prior negative archaeological survey is on file

      ii. No ground disturbance will occur

      iii. The project is in 100 percent culturally-sterile fill

   b. If no known cultural resources are present, the DAHP Preditive Model shall be applied and the survey recommendations shall be followed according to the associated risk identified.

   c. If cultural resources are present and ground-disturbance is proposed, then a site inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes prior to initiating disturbance. The resource shall be avoided or a mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant.

2. In accordance with state law:

   a. In the event that human remains, burials, funery items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.

   b. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53 shall be adhered to.

## 4.8 PUBLIC ACCESS

A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety by recognizing that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.
2. Consistent with the overall best interest of the state and the people of the Town, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views, by regulating the design, construction, and operation of permitted uses in the Town's shoreline jurisdiction.
3. Recognize and facilitate implementation of existing Town parks, recreation, and open space plans.
4. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals.

B. Regulations

1. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.
2. In compliance with RCW 36.87.130, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.
3. Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.
4. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
    a. The development is proposed or funded by a public entity or is on public lands;
    b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;
    c. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial use; or
    d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.
    e. The proposed use is a multiunit residential development or a subdivision of land for more than four parcels.
5. An applicant shall not be required to provide public access where the Town determines that one or more of the following conditions apply:
    a. Proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings or subdivision of four or fewer lots;
    b. The proposed use, activity or development only involves agricultural activities;

c. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

d. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

e. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

f. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

g. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

6. Public access locations shall be clearly marked and available to the public.

7. The Town may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

8. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

9. The Town shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

10. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

### 4.9 UNCLASSIFIED USES

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 7.6(G) of this SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

### 4.10 SHORELINE USE AND MODIFICATION TABLE

All uses and developments in the Town's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

**Table 4.10-1 Use and Modification Table**

| Shoreline Use or Modification | Rural Industrial | Urban Conservancy | Shoreline Residential | Shoreline Parks | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| **Agriculture** | | | | | |
| Existing Agricultural Activities | Not regulated under this SMP | | | | |
| New Agricultural Activities | P | P | P | P | N/A |
| Agricultural Related Activities | P | C | C | X | N/A |
| **Aquaculture** | | | | | |
| Commercial | X | X | X | X | X |
| Non-commercial | P | P | P | P | P |
| **Boating Facilities** | | | | | |
| Boating Facilities | X | X | X | X | X |
| **Breakwaters, Jetties, Weirs and Groins** | | | | | |
| To protect or restore ecological functions, or maintain existing water-dependent uses | P | P | P | P | P |
| All other purposes | C | C | C | C | C |
| **Commercial Development** | | | | | |
| Water-Oriented Uses | | | | | |
| Visitor-serving uses | P | C | C | C | X |
| Recreation concessions | P | P | C | P | X |
| Other retail, trade or service | P | C | C | C | X |
| Nonwater-Oriented Uses | P | X | X | C | X |
| **Dredging and Dredge Material Disposal** | | | | | |
| Dredging | N/A | N/A | N/A | N/A | P |
| Dredge Material Disposal[1] | P | C | C | C | X |
| **Fill and Excavation** | | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | P | N/A |
| **Flood Hazard Management** | | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P | P |
| New Facilities | P | C | P | C | See adjacent upland designation |
| **Forest Practices** | | | | | |
| Forest Practices | X | X | X | X | N/A |

| Shoreline Use or Modification | Rural Industrial | Urban Conservancy | Shoreline Residential | Shoreline Parks | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| **Industrial Development** | | | | | |
| Industrial Development | P | X | X | X | X |
| **In-Stream Structures** | | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; or to support agriculture | P | P | P | P | P |
| Other | P | C | C | C | See adjacent upland designation |
| **Mining** | | | | | |
| Mining | X | X | X | X | X |
| **Recreational Development** | | | | | |
| Water-Oriented | P | P | P | P | P |
| Nonwater-Oriented | | | | | |
| New | C | C | C | C | X |
| Replacement, expansion or upgrade of existing | P | P | P | P | X |
| **Redevelopment, Repair, and Maintenance** | | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P | P |
| **Residential Development** | | | | | |
| Single-Family Dwelling | P | P | P | X | X |
| Multi-Family Dwelling | C | C | C | X | X |
| **Shoreline Restoration and Enhancement** | | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P | P |
| **Shoreline Stabilization** | | | | | |
| New Stabilization | P | P | P | P | P |
| **Transportation and Parking** | | | | | |
| Expansion of Existing Transportation and Parking Facilities | P | P | P | P | P |
| New Access Roads Serving Permitted Uses | P | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | P | C | C | P | N/A |
| New Bridges or Railways | C | C | C | C | C |
| New Airstrips | C | X | X | X | N/A |

| Shoreline Use or Modification | Rural Industrial | Urban Conservancy | Shoreline Residential | Shoreline Parks | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| New Trails | P | P | P | P | N/A |
| New Parking to Support Authorized Use[2] | P | P | P | P | N/A |
| **Utilities** | | | | | |
| Expansion of Existing Utilities | P | P | P | P | P |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | C | C | C | C | C |
| New Power Generating Facilities | C | C | C | C | C |
| New Utility Transmission Lines | P | P | P | P | C |
| New Utility Services, General | P | P | P | P | C |
| New Wastewater Treatment Facility | C | C | C | C | C |

[1] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.
[2] Parking as a primary use prohibited in all designations per WAC 173-26-241(3)(k)).

## 4.11 SHORELINE DEVELOPMENT STANDARDS

A. Shoreline developments shall comply with all dimensional requirements of the Rosalia Municipal Code.

B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. There shall be a 35-foot maximum building height for all structures, except that utility facilities and bridges are not required to meet this standard. To exceed 35 feet, an applicant must comply with the following criteria:

1. Demonstrate overriding considerations of the public interest will be served; and
2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

Water-oriented structures and essential public facilities shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities

designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, airport facilities such as towers, as well as accessory features such as lighting required for operations. All other structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 7.6(H)).

D. Shoreline buffers: See Appendix B (Shoreline Critical Areas Policies and Regulations), Subsection 5.D.

# 5. Shoreline Use Policies and Regulations

## 5.1 AGRICULTURE

A. Policies

1. Promote and maintain productive agricultural lands where it exists in shoreline jurisdiction.
2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.
3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.
4. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.

   Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

1. Appendix A (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
2. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.
3. SMP provisions shall apply in the following cases:
   a. New agricultural activities on land not meeting the definition of agricultural land;
   b. Expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
   c. Conversion of agricultural lands to other uses;

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d. Other development on agricultural land that does not meet the definition of agricultural activities; and

e. Agricultural development and uses not specifically exempted by the SMA.

4. Feed lots and stockyards are prohibited in shoreline jurisdiction.

5. In new cultivated areas, vegetative buffers consistent with Appendix B (Shoreline Critical Areas Policies and Regulations), Subsection 5.D, shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection 3.

6. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

7. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

8. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

## 5. 2 AQUACULTURE

A. Policies

1. Encourage aquaculture that supports the recovery of endangered or threatened fish species.

2. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with water-dependent uses.

3. Design and locate aquaculture facilities to minimize impacts to visual access and aesthetic quality of the shoreline.

B. Regulations

1. Aquacultural facilities must be designed and located to avoid:

a. The spreading of disease, especially to native aquatic life;

b. Introducing new non-native species which cause significant ecological impacts;

c. Significantly conflicting with water-dependent uses;

d. A net loss of ecological functions; or

e. Significantly impacting the aesthetic qualities of the shoreline.

2. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, and wind protection. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

## 5.3 COMMERCIAL DEVELOPMENT

A. Policies

1. Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-related and water-enjoyment uses should be prioritized over nonwater-oriented commercial uses.
2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented or over-water uses should be encouraged to locate inland from the shoreline jurisdiction.
4. Encourage new commercial development to locate in areas where commercial development uses already exist, and ensure that it does not significantly reduce scenic views or result in net loss of shoreline ecological function.
3. All facilities shall comply with the Environmental Protection regulations in Section 4.3.

B. Regulations

1. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP.
2. Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses. Water-related uses and water-enjoyment uses shall be given priority over nonwater-oriented uses.
3. Commercial use that is not water-dependent shall not be allowed over water except where it is accessory to a water-dependent use.
4. Nonwater-oriented commercial development shall be prohibited unless they meet the following criteria:
   a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access or ecological restoration; or
   b. The commercial use provides a significant public benefit with respect to provision of public access or ecological restoration.
   c. The use is on a site physically separated from the shoreline by another property or public right-of-way.
5. New commercial developments shall provide public access and ecological restoration to the shorelines where feasible and shall avoid impacts to existing navigation, recreation, and public access.
6. Commercial development shall comply with the Environmental Protection regulations of Section 4.3 and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

## 5.4 IN-STREAM STRUCTURAL USES

A. Policies

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes,

and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

B. Regulations

1. In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

2. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.

3. In-stream structures shall not be a safety hazard.

4. In-stream structures shall be designed by a qualified professional.

5. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to human safety.

6. In-stream structures shall comply with the Environmental Protection regulations in Section 4.3(B) and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (4.3(B)(4)), all structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

7. The applicant must obtain all other state, local and federal permits required for in-stream structures in addition to the requirements of this SMP.

## 5.5 INDUSTRIAL DEVELOPMENT

A. Policies

Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines and other State and Town requirements and provided they achieve no net loss of shoreline ecological function.

B. Regulations

1. Industrial facilities that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.

2. In compliance with WAC 173-26-241(3)(f), industrial development shall be in accordance with the following regulations:

   a. Industrial development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

b. In the review of shoreline developments, the Town shall give preference to water-dependent uses and then water-oriented industrial uses, in accordance with WAC 173-26-241(3)(f).

c. Regional and statewide needs for water-dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.

d. Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporating public access as mitigation.

e. Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 4.8(B)(5).

f. Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

3. In accordance with WAC 173-26-241(3)(f), new nonwater-oriented industrial development shall be prohibited on shorelines except when:

a. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

b. The industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

c. The site is physically separated from the shoreline by another property or public right of way.

## 5.6 RECREATIONAL DEVELOPMENT

A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between Town, County and State parks departments.

2. Prioritize shoreline recreational development that is primarily related to access to, enjoyment and use of the water and shorelines of the state.

3. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.

4. Where appropriate, provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions.

2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with Town development standards.

3. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.

4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access

to recreational areas shall emphasize both consolidated park or open space areas and trail access.

5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 5.3 (Commercial Development) of this Master Program.

## 5.7 RESIDENTIAL DEVELOPMENT

A. Policies

1. Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.
2. Residential development in the Town should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function s and comply with the Environmental Protection regulations of Section 4.3.
3. Residential development should aim to minimize environmental impact through ecological restoration and other measures.
4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.
5. Prohibit new over-water homes.

B. Regulations

1. Residential development shall comply with all applicable subdivision, critical area, and zoning regulations and be consistent with applicable SMP environment designations and standards.
2. Single-family residences are considered a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.
3. New residential lots created through land division shall be in accordance with the following:
    a. Comply with all applicable subdivision and zoning regulations, and the regulations of this SMP.
    b. Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out of lots.
    c. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
4. Residential development, including accessory uses and appurtenant structures, shall:
    a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.

b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.

c. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

5. In accordance with WAC 173-26-241(j), new over-water homes shall be prohibited.

6. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use.

7. In accordance with Subsection 4.8(B)(4)(e) of this SMP, new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access.

8. All new residential developments and subdivisions shall comply with the Shoreline Stabilization regulations in Subsection 6.6(B)(1).

## 5.8 TRANSPORTATION AND PARKING

A. Policies

1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.

2. Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.

3. Promote trail connections that are consistent with local and regional plans.

4. Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing proposed shoreline uses that are consistent with this SMP.

B. Regulations

1. Transportation and parking plans and projects shall be consistent with this SMP, public access policies, and provisions on environmental protection.

2. Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate, and all circulation plans and projects shall support existing and proposed shoreline uses that are consistent with this SMP.

3. Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible and adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

4. Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:

a. Minimize possible adverse effects on unique or fragile shoreline

b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.

5. Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:

a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.

b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

c. Observe all regulations regarding critical areas and shoreline buffers.

d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

6. The provisions of Section 6 in Appendix B (Frequently Flooded Areas) shall be addressed in the design of transportation facilities.

## 5.9 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.

2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. All utility facilities shall be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

2. Utility production and processing facilities, such as sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible.

4. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement corridor over new locations.

5. Development of pipelines and cables and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions shall be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

6. Existing utility services routed through shoreline areas shall not be a sole justification for more intense development.

### 5.10 EDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

A. Policies

1. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Appendix A (Definitions), unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.
2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.
3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:
   a. The SMP Administrator shall determine the extent of compliance with SMP provisions.
   b. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

# 6. Shoreline Modification Policies and Regulations

## 6.1 GENERAL REQUIREMENTS

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.
2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
2. As much as possible, the number and extent of shoreline modifications shall be limited.

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3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (see Subsection 4.3(B)(4)). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

5. Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.

6. All feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur shall be incorporated.

## 6.2 BREAKWATERS, JETTIES, WEIRS, AND GROINS

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A. Policies

1. Allow breakwaters, jetties, and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.

B. Regulations

1. New, expanded or replacement structures shall only be allowed if it can be demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Breakwaters, jetties, and groins shall be limited to the minimum size necessary.

3. Breakwaters, jetties, and groins must be designed to protect critical areas, and shall implement mitigation sequencing to achieve no net loss of ecological functions.

4. Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.

5. Permit requirements and the level of approval required is regulated by Table 4.10-1 in Section 4.10.

## 6.3 DREDGING AND DREDGE MATERIAL DISPOSAL

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A. Policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

B. Regulations

1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Subsection (B)(4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.

2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

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

4. Dredging may only be permitted for the following activities:

   a. Development of essential public facilities when there are no feasible alternatives.
   b. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
   c. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
   d. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

6. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

   a. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
   b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

7. Dredge material disposal in open waters may be approved only when authorized by applicable state and federal agencies, and when one of the following conditions apply:

   a. Land disposal is infeasible, less consistent with this SMP, or prohibited by law.
   b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

8. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:

A description of the purpose of the proposed dredging activities.

a. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.

b. A description of proposed dredging operations, including, but not limited to:

iv. The method of removal.

i. The length of time required.

ii. The quantity of material to be initially removed.

iii. The frequency and quantity of projected maintenance dredging.

c. A description of proposed dredge material disposal, including, but not limited to:

i. Size and capacity of disposal site.

ii. Means of transportation to the disposal site.

iii. Future use of the site and conformance with land use policies and regulations, if applicable.

d. Plans for the protection and restoration of the shoreline environment during and after dredging operations.

e. An assessment of potential impacts to ecological functions or processes from the proposal.

f. A mitigation plan to address identified impacts, if necessary.

## 6.4 FILL AND EXCAVATION

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A. Policies

1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.

2. Encourage fill when it is associated with restoration projects.

B. Regulations

1. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (see Subsection 4.3(B)(4))s.

2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when necessary to support one or more of the following:

a. Water-dependent uses.

b. Public access.

c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.

e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.

f. Ecological restoration or enhancement when consistent with an approved restoration plan.

g. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.

h. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

3. Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

a. Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.

b. Located outside applicable buffers, unless specifically allowed in buffers.

4. All fills, except fills for the purpose of shoreline restoration, must be designed:

a. To be the minimum size necessary to implement the allowed use or modification.

b. To fit the topography so that minimum alterations of natural conditions will be necessary.

c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

## 6.5 SHORELINE RESTORATION AND ENHANCEMENT

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A. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, and/or U.S. Fish and Wildlife Service.

2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the Town or other entities.

4. Develop application processing guidelines that will streamline the review of restoration-only projects.

5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

B. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.

2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.

3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.

6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the Town to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

## 6.6 SHORELINE STABILIZATION

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A. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.

2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.

3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.

4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.

5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

B. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.

   a. Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

   b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.

2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.

3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size

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

4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows

   a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

   b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

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

      ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

      iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.

   c. In support of water-dependent development when all of the conditions below apply:

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

      ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.

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

   d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect pri ncipal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

b. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

c. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best managem ent practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

   a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:
      i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.
      ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.
      iii. An assessment of alternative measures to shoreline stabilization.
      iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.
      v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.
   b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:
      i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.
      ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.
      iii. An assessment of alternative measures to shoreline stabilization.
      iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.
      v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.
      vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.
   c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:
      i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.
      ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

# 7. Administration and Permitting

## 7.1 GENERAL COMPLIANCE

RCW 90.58.140(3) requires the Town to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

## 7.2 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

A. SMP Administrator

The Town shall designate an SMP Administrator, which shall be the Mayor or his or her designee. The SMP Administrator is hereby vested with the authority to:

1. Administrate this SMP.
2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.
3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.
4. Make field inspections as needed, and prepare or require reports on shoreline permit applications.
5. Make written recommendations to the Planning Commission and Town Council as appropriate. The SMP Administrator shall make recommendations to the Town Council regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and Town Council.
6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
7. Determine and collect fees for all necessary permits as provided in Town ordinances or resolutions. The determination of which fees are required shall be established by resolution of the Town Council.
8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Rosalia Municipal Code.

C. Town Council

The Town Council is authorized to:

1. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.
2. Decide on appeals of administrative decisions issued by the Administrator of this SMP.



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D. Planning Commission

The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the Town's planning and regulatory program, and make recommendations for amendments thereof to the Town Council.

E. Town Council

The Town Council is authorized to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

2. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

## 7.3 ADMINISTRATION

A. This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

~~A.~~1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

B. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the Rosalia Municipal Code 18.68 (Procedures and Permits) and Section 7.6 (Shoreline Permits and Exemptions) of this Master Program.

C. Shoreline Variances shall be processed in the same manner as a variance from the Town's zoning code and shall be subject to all applicable provisions of Rosalia Municipal Code 18.68.040 (Variances) and 18.72.030 (Town Council), and Section 7.6 (Shoreline Permits and Exemptions) of this Master Program.

D. Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the Town or by Ecology as provided for in RCW 90.58.140(6).

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

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## 7.4 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The Town of Rosalia and/or the Department of Ecology is authorized to enforce the provisions of this Chapter, the ordinances and resolutions codified in it, and any rules and regulations

promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. When enforcement is undertaken by the Town, this Program will be enforced by the means and procedures set forth in the Rosalia Municipal Code.

## 7.5 SHORELINE ACTIVITY TRACKING

A. The Town will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring
6. Net change in linear feet of flood hazard structures
7. Net changes in vegetation (area, character)

B. Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the Town's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Final Shoreline Analysis Report (August 2014), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

## 7.6 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the Town. At a minimum, the Town shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Rosalia Municipal Code.
2. Per WAC 173-27-120, the Town shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Exemptions from a Substantial Development Permit – Application and Interpretation.

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use

that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed

that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

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

4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

5. The Town may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the Town's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter of Exemption or Statement of Exemption, as provided for in Subsections (B) and (D) of this Section. The following is a list of those activities likely to occur in Rosalia that may be exempt from a Shoreline Substantial Development Permit; see the cited RCW or WAC provisions for a complete list and details.

1. Development of which the total cost or fair market value, whichever is higher, does not exceed seven~~six~~ thousand and four~~ty~~-seven ~~hundred sixteen~~ dollars.

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements.

3. Construction of the normal protective bulkhead common to single-family residences.

4. Emergency construction necessary to protect property from damage by the elements.

5. ~~-~~Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels.

6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family.

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

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

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

part of an agricultural drainage or diking system.

10. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization.

11. The process of removing or controlling aquatic noxious weeds.

12. Watershed restoration projects.

13. A public or private project that is designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.

14. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

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D. Letter or Statement of Exemption

1. Letter of Exemption.

   a. A required Letter of Exemption shall be issued by the Town when a development application is determined to meet the listed criteria for an exemption and the development is required to obtain a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

   b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the Town's analysis of the consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

2. Statement of Exemption.

   a. The Town may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.

   b. Statements of Exemption shall be obtained by applicants whose projects meet any of the exemptions listed in Subsection 18.04.306(C), and which may alter or disturb the ground or vegetation. The Statement of Exemption shall be sent to the applicant.

3. Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

E. Permit application submittal requirements

1. Shoreline applications are classified as follows:

   a. Shoreline Substantial Development Permit
   b. Shoreline Conditional Use Permit
   c. Shoreline Variance
   d. Shoreline Exemption

2. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the Town, including a combined permit application form.

3. The contents of permit applications must be consistent with WAC 173-27-180 and Rosalia Municipal Code.

4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.

6. At the time of application, the applicant must pay the application fee.

F. Shoreline Substantial Development Permit Required

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 7.6(B) or is not subject to the SMP per Section 1.5 (Applicability).

2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

   a. The policies and procedures of the SMA;

   b. The provisions of WAC 173-27; and

   c. This SMP.

3. The Town may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

4. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Town Council and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Rosalia Municipal Code Chapter 18.72.030 (Conditional Use Permit Process).

2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.

5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Sections 18.72.030 of the Rosalia Municipal Code (Town Council) and 18.68.040 RMC (Variances).

2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.

4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the County to Ecology upon a final decision by the County consistent with WAC 173-27-130 (Filing with department), and then processed by Ecology consistent with WAC 173-27-190 (Permits for substantial development, conditional use, or variance) and WAC 173-27-200 (Department review of conditional use and variance permits).

J. Time Limits

Construction and activities authorized by a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance are subject to the time limitations of WAC 173-27-090.

K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

L. Exception to Permit and Letter of Exemption review

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility

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pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

2. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

3. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

4. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

## 7.7 NON-CONFORMING USES, STRUCTURES, LOTS

A. Nonconforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as approved by~~by~~.

Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable Town regulations.

B. Non-conforming Uses

1. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.

2. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

3. If a nonconforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use.

4. In accordance with Chapter 18.52.030 RMC (Abandonment of a nonconforming use), when a nonconforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of RMC and this Master Program.

~~B.~~C. Non-conforming ~~and S~~Structures

~~1.~~ Lots, structures, and uses that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this Program. ~~A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.~~

1.

~~1.~~2. In accordance with Chapter 18.52.030 RMC (Abandonment of a nonconforming use), if said nonconforming use is a single-family dwelling which is discontinued for a period of one year or longer, it shall not be subject to the restrictions of the zone classification if the lapse in use is occasioned by the good faith, continuing effort to sell said building for use as a single-family dwelling.

~~C.~~D. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment designation and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements to the greatest extent feasible.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Reductions of other setbacks should be considered first before reducing the buffer from the OHWM. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

~~2. Structures and customary accessory buildings on non-conforming lots shall be set back~~

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~~from the OHWM to the greatest extent feasible. Reductions of other setbacks should be considered first before reducing the buffer from the OHWM. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.~~

~~D.~~E. Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

1. ~~1.~~ Alteration, expansion, or restoration of nonconforming structures and uses are not allowed except as set forth in this Master Program and in Rosalia Municipal Code 18.52 (Nonconforming Uses, Structures and Sites).

2. ~~2.~~ Destruction of nonconforming structure or use (In accordance with RMC 18.52.060).

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~~1.~~3. If a nonconforming structure or a structure containing a nonconforming use suffers damage or is destroyed by any cause, including intentional destruction, exceeding 75 percent of its assessed value, a future structure or use on the site shall conform to this Master Program and the RMC.

~~2.~~4. If a nonconforming structure or a structure containing a nonconforming use suffers damage amounting to less than 75 percent of its assessed value, the structure may be repaired and the use continued provided such repair begins no more than six months from the date of damage and shall not result in greater nonconformity than the structure or use was prior to being damaged.

3. Any nonconforming structure which is moved any distance must be brought into conformance with this Master Program and the SMA.

4. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this Section shall apply as they apply to pre-existing nonconforming structures and uses.

5. Legally existing structures 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.

6. Alteration or expansion of a nonconforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

~~E.~~F. Pre-existing Legal Residential Uses. Notwithstanding Subsections (A) to (D) of this Section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Chapter :

1. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

2. The Town shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

3. Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location subject to RMC Section 18.52.060 (Destruction of nonconforming structure or use).

4. For purposes of this Section, “appurtenant structures” means garages, sheds, and other legally established structures. “Appurtenant structures” does not include bulkheads and other shoreline modifications or over-water structures.

5. Nothing in this Section shall:

~~1.~~ Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

1.

2. Affect the application of other federal, state, or Town requirements to residential structures.

## 7.8 DEBRIS ACCUMULATION AND OBSTRUCTION

A. Prohibited activities

Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, and Chapter RCW 90.58, the following activities shall be prohibited in shoreline jurisdiction:

1. The outside storage within the shoreline jurisdiction of abandoned, discarded or unused objects or equipment, excluding operational farm-related equipment or material; including but not limited to tires, household furniture, stoves, refrigerators and freezers.
2. The outside accumulation within the shoreline jurisdiction of two or more cubic yards of waste, rubbish and trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded or unused material, unless kept in covered bins or receptacles.
3. The presence of any unattached vehicle or boat parts or six or more abandoned or inoperable vehicles and/or boats that have remained in the same location or on the same contiguously owned property for more than sixty consecutive days, within the shoreline jurisdiction.
4. An act, or omitting to perform a duty, which act or omission either:
   a. Annoys, injures or endangers the comfort, repose, health or safety of others;
   b. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or
   c. In any way renders other persons insecure in life, or in the use of property.

B. Provisions of this Section (Debris Accumulation and Obstruction) shall be enforced by law enforcement and/or Town of Rosalia staff.

## 7.9 AMENDMENT OF SHORELINE MASTER PROGRAM

A. Purpose of Amendment.

This SMP carries out the policies of the Shoreline Management Act for the Town of Rosalia. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and
2. Assure consistency of this SMP with the Town's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date

This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

C. Amendment process

Future amendments to this SMP may be initiated by any of the following:

a. Town of Rosalia SMP Administrator;
b. Any person or group with an interest in the proposed amendment;
c. The Town Planning Commission, upon their initiative, or at the request of the Town Council by motion; or
d. A motion of the Town Council.

2. Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the Town. Such applications shall contain information specified in the Town's procedures for regulation amendments and information necessary to meet minimum public review procedures.

3. The Town shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

4. Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the Town Council, who shall approve or deny the proposed amendment following their open record hearing.

5. Prior to approval, the Town shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):

a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or
b. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and
c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).

6. ~~A~~fter approval or disapproval of a SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the Town shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.

# Appendix A - Definitions

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## A

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

**Accessory dwelling unit**. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory use or structure**. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to, that of the main building, structure or use on the same lot of record or part of the same development.

**Act**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent**. To be nearby and not necessarily abutting.

**Administrator or SMP Administrator**. The Town designee charged with the responsibility of administering the Town of Rosalia SMP.

**Advance mitigation**. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

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

**Agricultural equipment and agricultural facilities**. Includes, but is not limited to:

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

**Agricultural land**. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to the SMP Guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

**Agricultural related industries**. Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands**. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Alkali wetlands**. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

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

**Amendment**. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Appeal**. A request for a review of the interpretation of any provision of this chapter or a request for a variance.

**Applicant**. A person who files an application for permit under this Master Program and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

**Approval**. An official action by the Town's legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this chapter; or an

official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture**. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer**. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer, sole source**. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Associated wetlands**. Those wetlands which are in proximity to and either influence or are influenced by a lake or stream subject to the Shoreline Management Act.

## B

**Base flood or 100-year flood**. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the Town; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the Town. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

**Best management practices or BMP.** Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

**Boat launch**. An area that is developed for boating ingress and egress from the water.

**Boating facilities.** Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.

**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;
3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

## C

**Channel migration zone or CMZ**. The area along a river within which the channel can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area (CARA)**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical habitat**. Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

## D

**Data maps**. That series of maps maintained by the Town or its referenced repository for the purpose of graphically depicting the boundaries of critical areas.

**Developable area**. A site or portion of a site that may be utilized as the location of development.

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.
5. Dismantling or removing structures If there is no other associated development or redevelopment.

**Development permit**. Any permit issued by the Town, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by the Town of Rosalia, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

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**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this Master Program or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 6.3 (Dredging and Dredge Material Disposal), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

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## E

**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Enhancement**. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

**Erosion**. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas containing soils identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard and may experience significant erosion (WAC 365-190-030(5)). Erosion hazard areas also include channel migration zones.

**Excavation**. The mechanical removal of earth materials.

**Exempt**. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline

Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

**F**

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

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action.

In cases where this Master Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Town may weigh the actions' relative public costs and public benefits, considered in the short-and long-term time frames.

**Federal Emergency Management Agency (FEMA)**. The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

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

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Appendix B (Shoreline Critical Areas Regulations and Policies), Section 5.

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood Insurance Rate Map (FIRM)**. 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**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and

aquatic food chains reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

## G

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**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.
3. Rough grade is a stage where grade conforms approximately to an approved plan.
4. Finish grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin**. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also “Weir.”

**Groundwater**. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines**. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

## H

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

**Hard stabilization**. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**Houseboat or floating home**. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

**Hydric soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

## I

**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-rill**. Areas subject to sheet wash.

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**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

## J

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**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

## L

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**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors.

**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

## M

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**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**Manufactured home**. 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.”

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

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. The use of any or all of the following actions that are listed in descending order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;

4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses use or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shoreline areas. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.

**N**

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the Town's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Nonconforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 Town and so long as development conforms to all other requirements of this Master Program and the Act.

**Nonconforming Use.** An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

~~or~~**Non-conforming Structure/Development**. A building or structure which was ~~Any use, building, structure, or portion thereof which was~~ legally established before the effective date of this SMP, but because of the application of this SMP, is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program. ~~does not conform to the regulations contained herein.~~

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water-enjoyment.

**O**

**Off-site compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-site compensation**. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

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**Ordinary high water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the Town or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

**P**

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**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

**Potable water**. Water that is safe and palatable for human consumption.

**Practical alternative**. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Priority Habitat and Species (PHS)**. As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including state endangered, threatened, sensitive, and candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS list is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(28-29))

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or Town zoning are not considered appropriate and are not allowed.

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable waterbodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

## Q

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**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

## R

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**Recharge**. The process involved in the absorption and addition of water to groundwater.

**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreational Development.** Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

**Recreational vehicle**. A vehicle which is:

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.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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

**Residential**. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

**S**

**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic hazard areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

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**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback**. The distance in feet as measured from a lot line to the sill line of a building, or the closest point of a structure to the lot line. In the case where there is a leased area within a parcel of land, the setback shall be measured from the lease line to the sill of a building, or the closest point of a structure to the lease line.

**Shall**. A mandate; the action must be done.

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

**Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

1. Shorelines of statewide significance [not found in the Town of Rosalia];
2. 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
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the Town on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**Shorelines of statewide significance**. The following are shorelines of statewide significance:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark [not found in the Town of Rosalia];
2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer [not found in the Town of Rosalia]; and
3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

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

**Significant adverse effect/impact.** Any noticeable or measureable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**SMP Administrator**. See “Administrator.”

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

**Special flood hazard areas**. The land in the floodplain within an area subject to a one percent or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern designated by the Town due to their population status or their sensitivity to habitat manipulation.

**Species, Priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, Threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, Sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $~~6,416~~8,504, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar
year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the Town Building Inspector, County Environmental Health, or Town staff and which are the minimum necessary to assure safe living

conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

**Substantially degrade**. To cause significant ecological impact.

## T

**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

## U

**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

## V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in the Town if it were not for the presence of tourists or visitors to the region.

## W

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. 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

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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**. Any water-dependent, water-related, or water-enjoyment use.

**Water table**. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, or other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Wetlands**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

**Wetlands, isolated**. Those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual and applicable regional supplements.

**Wetland functions**. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

# Appendix B – Shoreline Critical Areas Policies and Regulations

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## 1. Policies

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 2. General Regulations

D. Purpose, intent and applicability.

1. The purpose of this Section is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with state law while allowing for reasonable use of private property. By adopting this Section, the Town of Rosalia acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property. Critical areas regulated by this Section include:
   a. Wetlands as designated in Section 3 of this Appendix B,
   b. Critical aquifer recharge areas as designated in Section 4 of this Appendix B,
   c. Fish and wildlife habitat conservation areas as designated in Section 5 of this Appendix B,
   d. Frequently flooded areas as designated in Section 6 of this Appendix B, and
   e. Geologically hazardous areas as designated in Section 7 of this Appendix B.
2. All areas within the Town's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section.

E. Data Maps.

1. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at Town Hall.
2. The critical areas data maps are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the SMP Administrator to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable provisions, sections, and chapters of the Rosalia Municipal Code.
3. Interpretation of Data Maps.

a. The SMP Administrator will interpret data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the town council.

b. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this chapter. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this chapter. All development applications are required to show the boundary(ies) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

4. Application of Data Maps. The conclusion of the SMP Administrator that a parcel of land or a part of a parcel of land that is the subject of a proposed development application is within the boundary(ies) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the Town will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

5. The critical area overlay zone in shoreline jurisdiction consists of that area within 250 feet of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25-foot buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within shoreline jurisdiction and the critical area overlay zone shall be subject to project review as required in this Section unless specifically exempted.

F. Permitted, conditional and prohibited uses.

Uses allowed by Shoreline Exemption, a Shoreline Substantial Development Permit, or Shoreline Conditional Use Permit, or uses altogether prohibited in the critical areas overlay zone shall be the same as those allowed in the underlying zoning district and environment designation as established in this SMP.

G. General Regulations.

1. Shoreline permits or shoreline exemptions, and any other Town-required permits, for activities within the critical areas overlay zone and shoreline jurisdiction, as defined on the data maps (Subsection 2.B), shall be subject to review under the provisions of this Section, excepting: (1) those activities specifically exempted from a critical areas report in Subsection 2.D(3); and (2) agricultural activities. As part of this review, the Town shall:

a. Verify the information submitted by the applicant;

b. Evaluate the project area and vicinity for critical areas;

c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

2. Critical Areas Report.

a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:
   i. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;
   ii. A copy of the site plan for the development proposal including:
      a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
      b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;
   iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
   iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;
   v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;
   vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;
   vii. An analysis of site development alternatives including a no development alternative;
   viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) to avoid, minimize, and mitigate impacts to critical areas;
   ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Subsections 4.3(B)(6) and Subsection 2.F(4) of this Appendix B, including, but not limited to:
      a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
      b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.
   x. A discussion of the performance standards applicable to the critical area and proposed activity;
   xi. Any additional information required for the critical area as specified in the corresponding section.

b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

3. The following activities shall be allowed in critical areas and their buffers without a critical areas report, provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area:

a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;

c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

d. Education, scientific research and use of nature trails;

e. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

f. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;

g. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

h. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

i. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the Town, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

j. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

H. Protection of Critical Areas.

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, Subsection 4.3(B)(4) to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

3. Upon the review and approval of any required critical areas report, a "Notice of Critical Area Protection" shall be recorded by the owner of the parcel subject to the development. Such notice on title shall be recorded with the Whitman County Auditor's Office and must:

a. Identify the presence of a critical area and/or its buffer on the parcel subject to the

development,

b. State that this Shoreline Master Program and Shoreline Critical Areas Regulations are applicable to the property, and

c. Declare that limitations on actions in or affecting such critical areas and buffers may exist.

I. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after Town approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the Town a mitigation plan as part of the critical area report. The mitigation plan shall include:

a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

iii. An analysis of the likelihood of success of the compensation project.

b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

i. The proposed construction sequence, timing, and duration;

ii. Grading and excavation details;

iii. Erosion and sediment control features;

iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

v. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Innovative Mitigation

a. The Town may approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

ii. The group demonstrates the organizational and fiscal capability to act cooperatively;

iii. The group demonstrates that long-term management of the habitat area will be provided; and

iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

J. Review Criteria.

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing requirements in Subsection 4.3(B)(4);

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

c. The proposal is consistent with the general purposes of this Section and the public interest;

d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.F of this Appendix B;

e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results

in no net loss of critical area functions and values; and

f. The proposal is consistent with other applicable regulations and standards.

2. The Town may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.

3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) shall be denied.

K. Unauthorized Critical Area Alterations and Enforcement.

Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 and the following.

1. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The Town shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

2. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the Town. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 2.H(3) of this Appendix B. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

3. Minimum Performance Standards for Restoration

a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

i. The historic structural and functional values shall be restored, including water quality and habitat functions;

ii. The historic soil types and configuration shall be replicated;

iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

iv. Information demonstrating compliance with the mitigation plan requirements in Subsection 2.F(4)of this Appendix B shall be submitted to the SMP Administrator.

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to

minimize the hazard.

4. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The Town may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section. The civil penalty shall be assessed at the rate set forth in Town code.

L. If a development permit is sought for critical area property that is located partly in the Town's shoreline jurisdiction, and partly in unincorporated Whitman County's shoreline jurisdiction, the SMP Administrator or designee shall coordinate the Town's review of the project with the appropriate County officials.

### 3. Wetlands.

M. Delineation.

The existence of a wetland and the location of its boundary shall be determined by the applicant through the performance of a field investigation applying the methodology of the approved federal wetland delineation manual and applicable regional supplements, in accordance with WAC 173-22-035, as amended. Delineations shall be performed by a qualified professional.

N. Rating.

Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met: Rating categories shall be applied as the wetland exists at the time of the associated permit application. Wetland rating categories shall not change due to illegal modifications.

1. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

3. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV: wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

O. Standard Wetland Buffer Widths.

The standard buffer widths in Table B.3-1 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.

1. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-1 below.

2. The use of the standard buffer widths requires the implementation of the measures in Table B.3-2, where applicable, to minimize the impacts of the adjacent land uses.

3. If an applicant chooses not to apply the mitigation measures in Table B.3-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

4. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.
   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

**Table B.3-1 Wetland Buffer Requirements**

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category I: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Bogs and Wetlands of High Conservation Value | 190 ft | | | |
| Category I: Alkali | 150 ft | | | |
| Category II: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category II: Vernal pool | 150 ft | | | |
| Category II: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category III (all) | 60 ft | Add 30 ft | Add 60 ft | Add 140 ft |
| Category IV (all) | 40 ft | | | |

**Table B.3-2. Required measures to minimize impacts to wetlands**

(Measures are required, where applicable to a specific proposal)

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | Use best management practices to control dust |

P. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator council finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available, that at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species, or
2. The wetlands are used by species proposed or listed by the federal government or the state as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or

4. The adjacent land has minimal vegetative cover or slopes greater than 25 percent.

Q. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

R. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

S. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this Appendix B, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the monitoring period (Subsection 2.F(4)(d) of this Appendix B).

T. Allowed Buffer Uses.

The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

   a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

   b. Wildlife-viewing structures.

3. Educational and scientific research activities.

4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water

down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

8. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

   a. No other location is feasible; and

   b. The location of such facilities will not degrade the functions or values of the wetland; and

   c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

9. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

10. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

U. Compensatory Mitigation.

1. Projects that propose compensation for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Subsection 2.F of this Appendix B and Subsection 4.3(B)(6), as well as Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

2. Wetland mitigation ratios shall be consistent with Table B.3-3.

**Table B.3-3. Wetland Mitigation Ratios**

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Wetlands with High Conservation Value | Not considered possible | Case by case | Case by case |
| Category I: Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

3. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-3, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

4. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

5. Wetland Mitigation Banks.

   a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

      i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,

      ii. The SMP Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and

      iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

   b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

   c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the

mitigation goals agreed to in the mitigation plan areachieved.

**4. Critical aquifer recharge areas.**

V. Septic Requirements.

In areas within shoreline designation designated as high susceptibility for aquifer contamination, all uses shall be connected to the Town's sewer system, except new uses on a septic system in the aquifer protection areas may be allowed with approval of the Town Council.

W. Disclosure Form.

For uses within shoreline jurisdiction locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

X. General Standards.

1. Impervious surfaces shall be minimized within the critical aquifer recharge area.
2. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction, to ensure that potential contaminants do not reach the aquifer.
3. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the Town and local fire district.

**5. Fish and wildlife habitat conservation areas.**

Y. Designation

1. All areas within the shoreline jurisdiction of the Town of Rosalia meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include the following:

    a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.

        i. Federally designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service should be consulted as necessary for current listing status.

        ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the state Department of Fish and Wildlife, and those native plant species identified by the Department of Natural Resources, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The Washington Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.

iii. A combined list of federally and state identified species having the potential to exist within shoreline jurisdiction is maintained by the town.

b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife.

c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the Town, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, such as high quality native plant communities, and those with historical or cultural importance.

d. Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

e. Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.

f. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

g. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the state Department of Natural Resources.

h. Land Essential for Preserving Connections between Habitat Blocks and Open Spaces.

All areas within the Town's shoreline jurisdiction meeting one or more of the above criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section. The SMP Administrator shall be responsible for making final habitat conservation area designations in shoreline jurisdiction within the Town.

2. Mapping. The approximate location and extent of habitat conservation areas are shown on the following maps, which are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

a. Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Department of Natural Resources, Official Water Type Reference Maps, as amended;

c. Resident salmonid distribution maps contained in studies conducted by the local watershed planning unit or in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

d. Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

e. Town of Rosalia habitat maps.

These maps are to be used as a guide for the Town, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

Z. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

   a. The project area of the proposed activity;

   b. All habitat conservation areas and recommended buffers within 200 feet of the project area; and

   c. All shoreline areas, flood plains, and other critical areas, and related buffers within 200 feet of the project area.

3. Habitat Assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:

   a. A detailed description of vegetation on and adjacent to the project area;

   b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

   c. A discussion of any federal, state, or local special 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 the project area;

   d. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Subsection 2.F of this Appendix B; and

   e. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional Information. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the critical area report to include:

   a. An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

   b. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

5. Waiver. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly

demonstrate that the proposed activity is outside of the stream buffer.

AA. General Requirements Pertaining to Habitat Conservation Areas.

1. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may be altered only if the proposed activity, including associated mitigation measures, does not degrade the quantitative and qualitative functions and values of the habitat and other critical areas.

2. Non-indigenous Species Shall Not Be Introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a local, state, or federal permit or approval.

3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

   a. Establishment of buffer zones;
   b. Preservation of critically important vegetation;
   c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
   d. Seasonal restriction of construction activities;
   e. Establishment of a duration and timetable for periodic review of mitigation activities; and
   f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Approvals shall be supported by the most current, accurate, and complete scientific and technical information available. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

Buffers.

a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.D(3) below.

b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in

accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

c. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

i. It will not reduce habitat functions;

ii. It will provide additional natural resource protection, such as buffer enhancement;

iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

iv. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

8. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

*"Habitat Conservation Area Do Not Disturb*
*Contact Town of Rosalia Regarding Uses and Restrictions"*

c. Fencing.

i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.

ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

9. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

i. Is located outside of the habitat conservation area and its buffer; and

ii. Meets the minimum lot size requirements of Town's zoning code.

c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

BB. Development Standards for Specific Species or Habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the SMP Administrator. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and the appropriate federal agency.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet, or within one-quarter mile (1,320 feet) and in a shoreline foraging area. The SMP Administrator shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the U.S. Fish and Wildlife Service.

2. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland standards set forth in Section 3 (Wetlands) of this Appendix B, in addition to meeting the habitat conservation area standards in Section.

3. Streams and Stream Buffers.

a. Activities Shall Not Degrade the Functions and Values of Streams and Stream Buffers. Unless otherwise allowed in this Appendix B, all structures and activities shall be located outside of the stream and stream buffer. A proposed activity may only be permitted in a stream or stream buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the stream and other critical areas.

b. Establishment of stream buffers. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, springs, and lakes.

c. Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:

i. Type S- Type S waters are shorelines of the state

ii. Type F- Type F waters are perennial or seasonal, fish-bearing waters

iii. Type Np- Type Np waters are nonfish-bearing perennial waters

iv. Type Ns- Type Ns waters are nonfish-bearing seasonal waters

d. Standard Stream Buffers.

i. Stream buffer widths for waters in shoreline jurisdiction in each environment designation are shown in Table B.5-1. A stream shall have the standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(e), or a lesser width is allowed pursuant to Subsection 5.D(3)(f) of this Appendix B.

ii. Any tributaries of Pine Creek shall have a 50-foot standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(e) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(f) of this Appendix B.

iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer that applies in the landward designation is that buffer which is specified for that designation and is still measured from the ordinary high water mark.

**Table B.5-1 Stream Buffers**

| Environment Designation | Shoreline Waters[1] (Type S) |
|---|---|
| All Designations | Water-dependent developments: no minimum buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| Urban Conservancy | The lesser of 100 feet or the waterward edge of an improved public road |
| Urban Conservancy – Future Annexation Area | • Clearing, grading and other land alteration to implement wastewater treatment constructed wetlands: no minimum buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting.<br>• Other structures and alterations: The lesser of 100 feet or the waterward edge of an improved public road. |
| Shoreline Residential | 75 feet |
| Shoreline Parks | 60 feet |
| Rural Industrial | 100 feet |
| Rural Industrial – Future Annexation Area | 30 feet |

[1] Shoreline (Type S) stream buffers are based on existing conditions in each environment designation

e. Increased Stream Buffer Width. The buffer width shall be increased, as follows:

i. When the SMP Administrator determines that the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or

ii. When the SMP Administrator determines that the standard width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

f. Buffer width averaging. The SMP Administrator may allow the buffer width of a stream to be reduced in accordance with a critical area report only if:

i. The width reduction will not reduce stream habitat functions, including those of non-

fish habitat;

ii. The width reduction will not degrade the habitat;

iii. The proposal will provide additional habitat protection;

iv. The total buffer area of each stream on the development proposal site is not decreased;

v. The buffer width is not reduced by more than 25% in any one location;

vi. The buffer width reduction will not be located within another critical area or associated buffer; and

vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

g. Stream and Buffer Mitigation. Mitigation of adverse impacts to streams and stream buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

h. Alternative Mitigation for Streams and Stream Buffers. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

i. Uses and modifications allowed in stream buffers. The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.

i. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced buffer unless at least one of the following is met:

a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility;

b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses;

c) The accessory use, development or activity can be located upland of the water-dependent use; or

d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

ii. Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures are allowed in buffers provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and Appendix B (Shoreline Critical Areas Policies and Regulations). The Town may review

and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

iii. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

iv. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the stream consistent with regulations in this SMP. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the stream should take the most direct route feasible consistent with appropriate safety standards.

**6. Frequently flooded areas.**

Applicants for development within frequently flooded areas shall comply with provisions of the Town's flood damage prevention ordinance.

**7. Geologically hazardous areas.**

CC. Buffers.

1. A minimum 25-foot buffer shall be established from the top, toe or sides of an identified geological hazard in shoreline jurisdiction (as identified by the U.S. Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40 percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in the geotechnical report prepared by a qualified professional engineer.

2. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.

b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

c. The proposal mitigates all impacts identified in the geotechnical report.

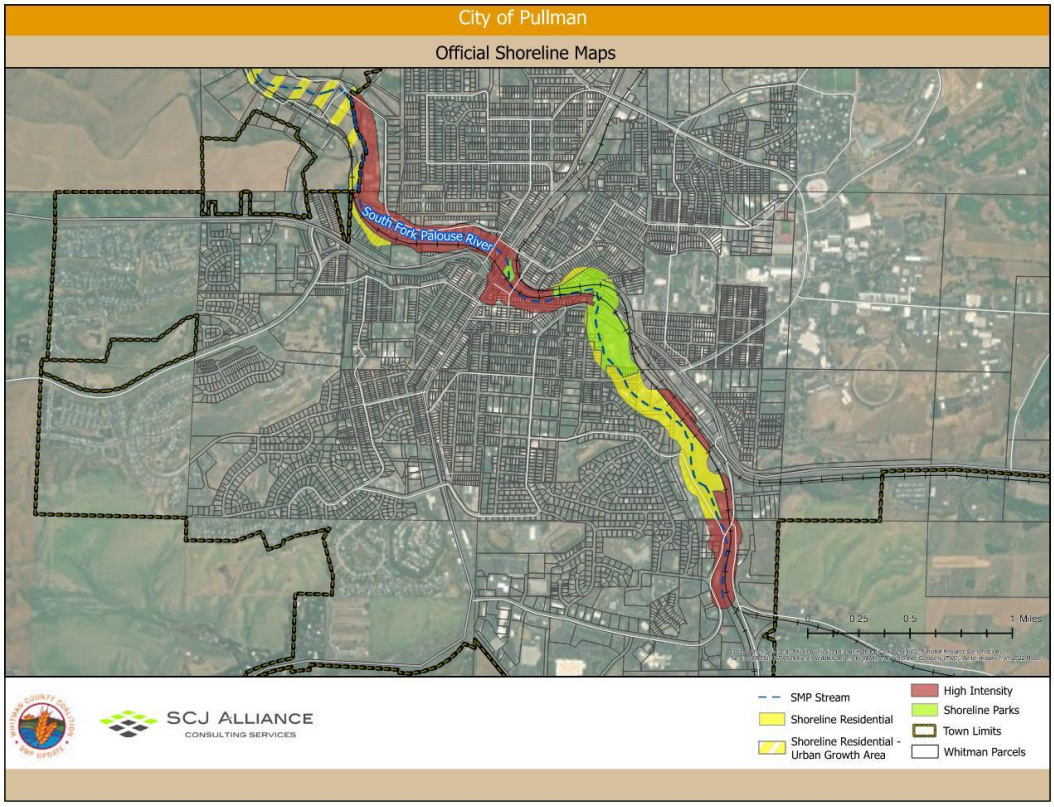
DD. Allowed activities.

The following activities are allowed in seismic and mine hazard areas:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,
2. Additions to existing single-story residences that are 250 square feet or less,
3. Installation of fences.

In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

# Appendix C -Shoreline Environment Designation Map



# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Rachel Granrath, SCJ Alliance | Rosalia | 01/09/2023 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended floating **on-water residences** provisions | Pg. 31, Ch. 5.7, A, 5. Over-water homes are prohibited. | No Action Needed. |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | Pg. 45, Ch 7.6, C, 13 includes language. | Clarification could be added regarding consistency with RCW.<br>**Added clarification language.** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | Boating facilities such as docks are prohibited in Rosalia. | No Action Needed. |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $**8,504**. | Pg. A-18. Definition of Substantial development. Currently at $6,416<br>Pg. 46, 7.6, C, 1 mentioned $6,416. | Needs updated to include newest threshold.<br>**Changed both to 8,504 (ECY 7/1 threshold)** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Pg. A-5. Definition of Development. Does not mention dismantling or removing structues. | Clarification language could be added regarding what doesn't qualify as development.<br>**Added DOE example language A-5, Development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | A-7. Definition of exempt includes RCW 90.58.355.<br>Pg. 46, 7.6, C references RCW. | DOE example language could be added for clarification.<br>**Added 7.6, L** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | "date of filing" mentioned within Pg. 49, 7.6, I, and Pg. 44, 7.3, E. "date of receipt" not mentioned in SMP. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | Forest practices are prohibited in shoreline jurisdiction. | No Action Needed |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | No mention of federal jurisdiction exemption. | Update needed to include DOE example language. **Added DOE Example language under Pg. 2, 1.5, C, 6.** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | Pg. 50, 7.7, B & A-13 Definitions have "uses" and "structures" combined. | Update needed to both sections to separate these to align with DOE examples. **Separated definitions on Pg. A-13.** **Separated sections under 7.7** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language **Added 7.6, C, 14.** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Pg. B-8, Ch 3, B references Eastern Washington Rating system. | No Action Needed. |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | RCW 90.58.140 referenced under Pg. 46, 7.6, C. | No Action Required, recommend adding language under time limits for clarification. **Added 7.3, A, 1.** |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined | No Action Required |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under 'Wetland edge' definition. | No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines in County. | No Action Needed. |
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | Pg. 31, Ch. 5.7, A, 5. Over-water homes are prohibited. | No Action Needed. |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | SMP contains clarified language. | No Action Needed. |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language. | No Action Needed. |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language. | No Action Needed. |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language. | No Action Needed. |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language. | No Action Needed. |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language. | No Action Needed. |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language. | No Action Needed. |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with

coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | Not applicable |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☐ | Yes | |
| | ☒ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☐ | Yes | |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

## Changes to local circumstance, new information, or improved data

| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

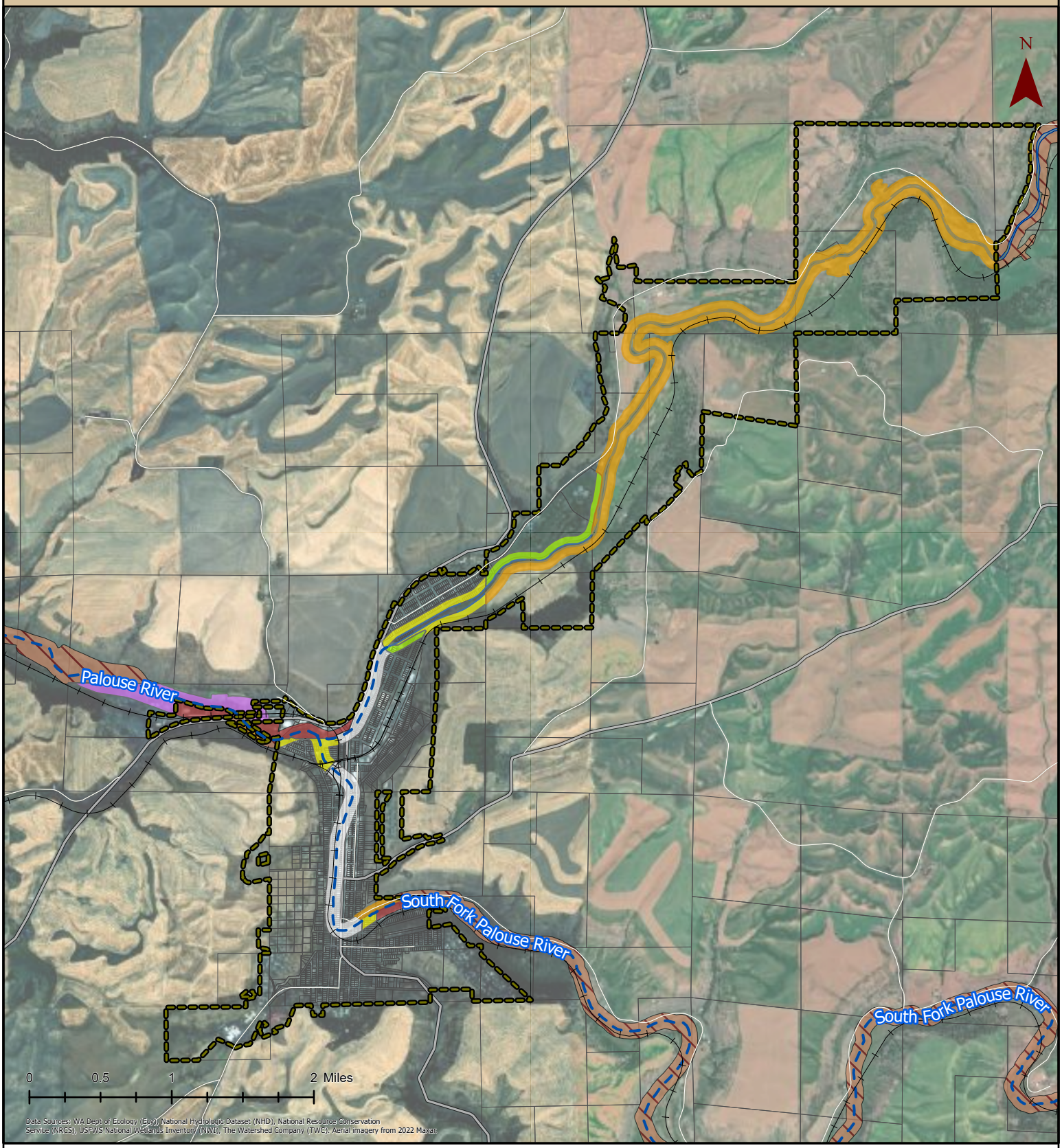
If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
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| | | | |

# City of Colfax

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- High Intensity
- Shoreline Residential
- Colfax Flume
- Rural Conservancy
- Urban Conservancy
- Shoreline Parks
- Rural Industrial/Port
- SMP Stream
- Town Limits
- Whitman Parcels



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# CITY OF COLFAX

# SHORELINE MASTER PROGRAM

**Adopted Ord. XX**
**Approved by Ecology XX**
**Effective XX**
**Periodic Update Working Draft: January 11, 2023~~January 11, 2023~~~~January 9, 2023~~~~January 5, 2023~~~~December 27, 2022~~**

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# READER'S GUIDE

## The Shoreline Management Act and the City of Colfax's SMP

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses. The City developed and adopted its first Shoreline Master Program (SMP) in 1974 as part of a regional effort with Whitman County. That SMP was developed almost 40 years ago and since then there has been some change along the City's shoreline. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules. Therefore, in accordance with the SMA, the City has prepared this SMP to guide and manage its shoreline.

The City of Colfax SMP contains goals, policies, regulations, and a shoreline environment designation map that guide the development of shorelines in accordance with the SMA (Revised Code of Washington [RCW] 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (Washington Administrative Code [WAC] 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The goals and policies of Colfax's SMP, approved under chapter 90.58 RCW, create a framework for the regulations of the SMP. They provide guidelines for future decision making and future development of lands within the City's SMP jurisdiction boundaries.

All regulatory elements of this SMP, including, but not limited to, definitions and use and modification regulations, are considered a part of the City's development regulations.

## ~~A.~~ Shoreline Jurisdiction

In accordance with state laws and rules, the jurisdiction of the City of Colfax's SMP encompasses the Mainstem, North and South Forks of the Palouse River; land within 200 feet of the ordinary high water mark (OHWM); any floodway; contiguous 100-year floodplain extending up to 200 feet inland of the floodway; and any associated wetlands.

## ~~B.~~ Applicability and Exemptions

The SMP applies to all proposed uses and development occurring within shoreline jurisdiction. This SMP does not apply to certain activities that do not alter structures or properties, such as interior building changes or routine gardening. It also does not apply to legally established uses already on the land such as existing agriculture, existing residences, and other existing uses, structures, and activities. See Section 1.5 for a complete description of SMP applicability.

There are also activities that are exempt from the Shoreline Substantial Development Permit system. These activities are subject to the standards of the SMP, but are not required to submit fees and other materials associated with Shoreline Substantial Development Permits. Common exemptions include, but are not limited to:

- Normal maintenance or repair of existing structures or developments
- Bulkheads common to single-family residences
- Emergency construction necessary to protect property from damage



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- Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures
- Construction of a single-family residence

Exemptions are fully described and listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, as amended. See Section 7.6 for additional information on exemptions.

## ~~C.~~ How to Read and Apply this SMP

When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the SMP Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this SMP and the Act.

In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations. Additional definitions are located in Appendix A.

For informational purposes, the flow chart below (Figure RG-1) illustrates how an applicant could navigate the regulations to determine if and how they apply to a particular project and property. In addition to approval from the City of Colfax, any shoreline development or construction project may also require a permit or approval from the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and/or the Washington Department of Natural Resources, among others.

## ~~D.~~ Document Organization

The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other City planning documents such as the City of Colfax Comprehensive Plan and the Colfax Municipal Code (CMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.



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- Chapter 6. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.
- Chapter 7. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.
- Appendix A. Definitions: provides definitions for terms used throughout the SMP.
- Appendix B. Shoreline Critical Area Policies and Regulations: contains policies and regulations for developments and uses in shoreline critical areas.

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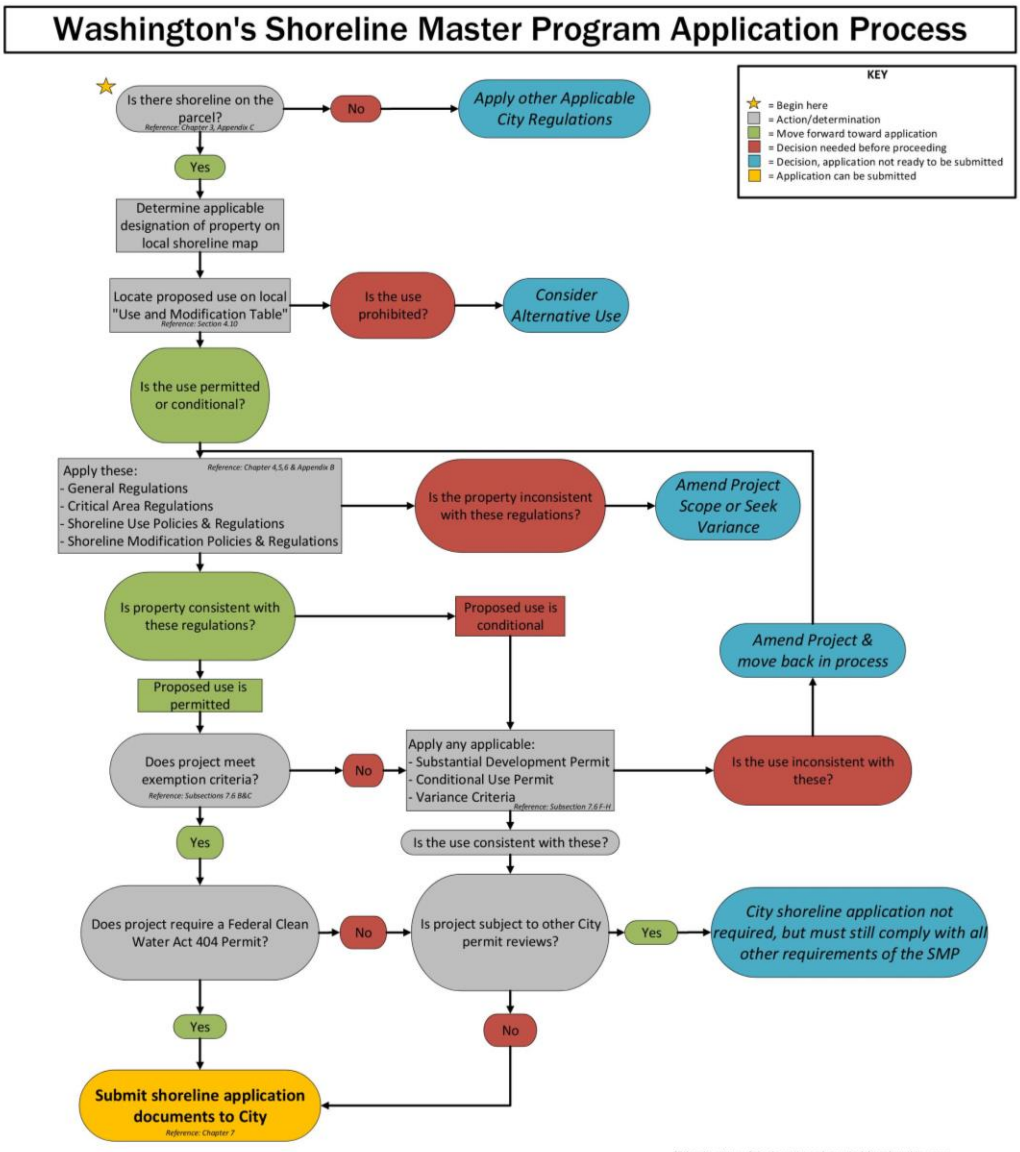
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Figure RG-1. Shoreline Application Process Flow Chart.




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# ~~1.~~ 1. Introduction

## 1.1 1.1 TITLE

This document shall be known and may be cited as the City of Colfax Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 1.2 1.2 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 1.3 1.3 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines...."
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

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

## 1.4 1.4 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that



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represents the visions and interests of our citizens and meets the needs of our rural communities.



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The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP that are approved under RCW 90.58 shall be considered an element of the City's comprehensive planning, and all regulatory elements of this SMP shall be considered a part of the City's development regulations.

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After the City's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the City and approved by Ecology.

1.5

## 1.5 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within the shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection B, all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Appendix A (Definitions) of this SMP, WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP;
2. Interior building improvements that do not change the use or occupancy;
3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
5. As of the effective date of the SMP, legal pre-existing residential uses and structures where no change or new activity is proposed.
6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 7.6(B) (Exemptions) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply City- wide to all nonfederal uses, activities, and development.

F. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

G. This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 are complied with. The City has predesignated shorelines in its urban growth area. Until annexed, development in these areas shall be regulated by the Whitman County Shoreline Master Program. Once annexed, those properties shall be regulated by the City of Colfax Shoreline Master Program.



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~~H.~~ A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a

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determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

1.6

### 1.6 LIBERAL CONSTRUCTION

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

1.7

### 1.7 SEVERABILITY

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

1.8

### 1.8 EFFECTIVE DATE

The SMP is hereby adopted on the October 5, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

# ~~2.~~ 2. Shoreline Vision and Goals

2.1

### 2.1 SHORELINE VISION

It shall be the ultimate goal of the City of Colfax SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the City of Colfax regarding the balanced use of the City's shorelines.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

2.2

### 2.2 SHORELINE GOALS

A. Shoreline Use

1. Promote the best use of City shorelines through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.
2. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the City as well as the shoreline environments, habitat, and ecological systems.
3. Consider agriculture as a water-related use and key economic factor in the City of Colfax. Other shoreline uses should not compromise agricultural production on designated agricultural lands.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the City's shorelines. Shoreline economic growth and prosperity should take into account the existing character of the City.



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2. Permit those commercial, industrial, recreational, and other developments that require a location along the shoreline and which may contribute to the economic well-being of the City while achieving no net loss of ecological function.

3. Promote new water-dependent, water-related, and water-enjoyment economic development, with preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the City's shorelines.

2. Ensure an adequate supply of safe public access to the City's shorelines.

3. Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

D. Recreation

1. Protect and expand opportunities for recreation in the City's shoreline areas, including but not limited to parks and other recreational areas.

2. Encourage water-oriented recreational opportunities along the shoreline where appropriate.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the City's shorelines.

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

3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

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~~3.~~

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and

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habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.

~~2.~~ 2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

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

I. Flood Hazard Management

Protect the City from losses and damage created by flooding along the shoreline.

# 3. Shoreline Jurisdiction and Environment Designations

## 3.1 3.1 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. In the City of Colfax, shorelines are the North and South Forks of the Palouse River.

2. Shorelands, as adopted by the City of Colfax and indicated on the Official Shoreline Map available for review at City Hall, are defined as:

*"those lands extending landward for 200 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…." (RCW 90.58.030)*

The City will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Maps available for review at City Hall. The purpose of the Official Shoreline Maps is to identify Environment Designations (Subsection 3.3 below). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.



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B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

*"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

*In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

~~a.~~

b. Reserve shoreline areas for water-dependent and associated water-related uses. Local



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governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

e. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

3.2

## 3.2 SHORELINES OF STATEWIDE SIGNIFICANCE

A. Designation of Shorelines of Statewide Significance.

1. Certain shoreline waterbodies and their associated shorelands have elevated status under the SMA if they are streams and rivers in Eastern Washington that are "…downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer" (RCW 90.58.030(2)(e)(v)(B)). These waterbodies are considered to be "shorelines of statewide significance," and have unique supplemental provisions outlined in Subsections 3.2(B) and (C) below.

2. In the City, the Mainstem and North Fork of the Palouse River are Shorelines of Statewide Significance.

B. Use Preferences

1. In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all Shorelines of Statewide Significance in the City, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order that are consistent with the statewide interest in the City's shorelines. These are uses that:

   a. Recognize and protect the statewide interest over local interest;
   b. Preserve the natural character of the shoreline;
   c. Result in long term over short term benefit;
   d. Protect the resource and ecology of the shoreline;
   e. Increase public access to publicly owned areas of the shorelines;
   f. Increase recreational opportunities for the public in the shoreline;
   g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))

2. Uses that are not consistent with these preferences should not be permitted on Shorelines of Statewide Significance.

C. Policies. Consistent with the use preferences for Shorelines of Statewide Significance contained in RCW 90.58.020 and identified in Subsection 3.2(B) of this Section, the City will base decisions administering this SMP on the following policies in order of decreasing priority:

1. Recognize and protect the state-wide interest over local interest.



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a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to this Master Program, and any proposed amendment5 affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments', citizen's advisory committees and local officials, and state-wide interest groups.

b. Recognize and take into account state agencie5' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.

~~c.~~ Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

c.

2. Preserve the natural character of the shoreline.

a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.

b. Restore, enhance, and/or redevelop those areas where intensive development already exi5ts in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity u5es to extend into low-intensity use or underdeveloped areas.

c. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.

d. Protect and restore habitats for State-listed "priority species."

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

a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

b. Preserve resources and values of Shorelines of Statewide Significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.

~~c.~~ Ensure the long-term protection of ecological resources of statewide importance.

4.

~~4.~~a. Protect the resources and ecology of the shoreline.

~~a.~~b. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.3 (Environmental Protection) of this SMP to minimize adverse impacts to regionally important wildlife resources, including Spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.

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

5. Increase public access to publicly owned areas of the shoreline.

~~c.~~d. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.

e. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.

f. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.

g. Provide incentives to landowners that provide shoreline public access, such as development incentives, tax reductions, or other measures.



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6. Increase recreational opportunities for public on the shoreline.
   a. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water oriented activities.
   b. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

## 3.3 SHORELINE ENVIRONMENT DESIGNATIONS

A. Urban Conservancy

1. Purpose: The Urban Conservancy environment is intended to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

2. Designation Criteria: Specific criteria for designation of the Urban Conservancy environment include areas or properties that:

   a. Lie in the City limits,

   b. Are planned for development that is compatible with the principals of maintaining or restoring the ecological functions of the area,

   c. Are suitable for water-enjoyment uses,

   d. Are open space of floodplains, or

   e. Are areas that retain important ecological functions which should not be more intensively developed.

3. Management Policies:
   a. Allowed uses for Urban Conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
   b. Water-oriented uses should be given priority over nonwatery-oriented uses.
   c. Development in the Urban Conservancy environment should only be allowed if it would not result in a net loss of shoreline ecological functions, and if significant ecological impacts can be mitigated.
   d. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

B. Shoreline Residential

1. Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

3. Management Policies:

   a. Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive

   b. Multifamily and multi-lot residential and recreational developments should provide



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public access and joint use for community recreational facilities.

~~b.~~

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

d. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

~~C.~~ C. Shoreline Parks

~~1.~~ 4. Purpose: The purpose of the Shoreline Parks environment is to:

a. Protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and

b. Ensure appropriate management and development of existing and future public parks and recreation areas.

~~2.~~ 5. Designation Criteria: Assign a Shoreline Parks environment designation if any of the following characteristics apply:

a. They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;

b. They are suitable for water-related or water-enjoyment uses;

c. They are open space, floodplain or other sensitive areas that should not be more intensively developed;

d. They have potential for ecological restoration;

e. They retain important ecological functions, even though partially developed; or

f. They have the potential for development that is compatible with ecological restoration.

~~3.~~ 6. Management Policies:

a. Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a non-permanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

b. Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.

c. Water-oriented used should be given priority over nonwater-oriented uses. Water- dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.

d. Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

e. Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.

f. Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.

g. Construction of new structural shoreline stabilization and flood control works Should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

~~D.~~C. Flume

1. Purpose: The purpose of the Flume environment designation is to accommodate a mix of water-



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oriented and nonwater-oriented uses in an intensively developed environment.

2. Designation Criteria: Assign a Flume environment designation to the concrete-lined channel of the Palouse River and shoreline areas extending 200 feet upland of the ordinary high water mark.

~~2.~~

3. Management Policies:

   a. In regulating uses in the Flume environment, recognize that the existing concrete-lined and fenced condition precludes accommodation of water-dependent and water-related development. Water-enjoyment uses, primarily visual, and nonwater-oriented uses should be allowed.

   b. Manage the Flume environment to maximize flood control for protection of adjacent uses and developments.

~~E.~~D. High Intensity

1. Purpose: The purpose of the High Intensity environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria: Assign a High Intensity environment designation to shoreline areas within incorporated municipalities and urban growth areas if they currently support high- intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

3. Management Policies:

   a. Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

   b. When considering shoreline environment designation amendments proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

   c. New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

   d. Where feasible, visual and physical public access should be required as part of development or other safety security, or fragile environmental conditions apply.

   e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetation separation.

~~F.~~E. Aquatic

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

2. Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management Policies:



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Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

a. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

b. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

c. All development and uses should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe unobstructed passage of fish and wildlife, particularly those species dependent on migration.

d. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

## ~~G.~~F. Environment Designation Interpretation

1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:

   a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

   b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustments or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.

   c. Boundaries indicated as approximately following roads and railroad shall be respectively construed to follow the nearest right-of-way edge.

   d. Boundaries indicated as approximately parallel to or extensions of feature indicated in (a), (b), or (c) above shall be so construed.

2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Chapter 7 (Administration and Permitting) of this SMP and the City's appeal procedures in CMC 17.24 (Board of Adjustment). If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program) of this SMP.

3. All shoreline areas waterward of the OHWM shall be designated Aquatic.

4 All shoreline areas upland of the OHWM shall be designated Urban Conservancy, Shoreline Residential, Shoreline Parks, Flume, or High Intensity.

5. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map.

## ~~H.~~G. Official Shoreline Maps and Unmapped or Undesignated Shorelines

1. The Official Shoreline Maps at the time of SMP adoption, which illustrate the delineation of shoreline jurisdiction and environment designations in the City, are available for review at City Hall. The Official Shoreline Maps shall include the following language: "We hereby certify that this map constitutes the Official Shoreline Map as approved by Ordinance 15- 17 of the City Council



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and signed by its chair dated this October 5, 2015." The Official Shoreline Maps may be updated administratively or through an SMP amendment as indicated in Subsections (H)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.

3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

5. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Revisions to the Official Shoreline Maps may be made as outlined in this Subsection (H)(5) without an SMP amendment.

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# 4. General Policies and Regulations

## 4.1 INTRODUCTION

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

## 4.2 SHORELINE USE AND DEVELOPMENT REGULATIONS

A. Policies

1. Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.
2. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.
3. Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.
4. The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.
5. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.
6. Protect current agricultural uses on agricultural land and provide for new agricultural uses where appropriate so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.

B. Regulations

1. All uses in the shoreline shall comply with the City's development code and this Program.
2. The shoreline use and modification table (Table 4.10-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.
3. All structures in the shoreline shall be designed and constructed consistent with the underlying zoning and shall not exceed 35 feet above average grade level, consistent with RCW 90.58.
4. To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).



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allowed, mitigation shall address adversely impacted functions and processes in the

5. In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

4.3

## 4.3 ENVIRONMENTAL PROTECTION

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A. Policies

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1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the City's environmental resources (air, ground and surface waters, and indigenous biology).

3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of City residents.

B. Regulations

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1. Ecological Functions. Uses and developments on City shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

2. Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of Appendix B (Shoreline Critical Areas Policies and Regulations).

3. Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 4.3(B)(4) of this Section is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 4.3(B)(4):

    a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standards(s); or

    b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance; or

    c. When specifically required by regulations contained in this SMP.

4. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 4.3(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

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

    b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

    c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to

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allowed, mitigation shall address adversely impacted functions and processes in the the conditions existing at the time of the initiation of the project or activity;

d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

a. Removal of native plant communities in shoreline jurisdiction,
b. Removal of native or non-native trees that overhang the water,
c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,
d. Removal or alteration of priority habitats or habitat for priority species,
e. Construction of new or expanded in-and over-water structures,
f. Construction of new or expanded shoreline stabilizations,
g. New discharges of water into shoreline waters that may introduce pollutants,
h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or
i. Changes in grading or fill that reduce floodplain capacity.

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allowed, mitigation shall address adversely impacted functions and processes in the

6. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City of Colfax, but may be voluntarily performed by an applicant. In addition to any requirements found in Appendix B (Shoreline Critical Areas Policies and Regulations) a mitigation plan must include:

   a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
   b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
   c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
   d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project stie has been fully developed;
   e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;
   f. A contingency plan if mitigation fails to meet established success criteria; and
   g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

7. Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

4.4

## 4.4 SHORELINE VEGETATION CONSERVATION

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A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

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allowed, mitigation shall address adversely impacted functions and processes in the

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Appendix B (Shoreline Critical Areas Policies and Regulations) of this SMP. Regulations specifying establishment and management of shoreline buffers are located in Appendix B, Section 5 (Fish and Wildlife Habitat Conservation Areas) of this SMP.

3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 4.3 (Environmental Protection) of this SMP and any other regulations specific to vegetation management contained in this SMP and Colfax Municipal Code.

4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Colfax Municipal Code. Mitigation sequencing per Subsection 4.3(B)(4) (Environmental Protection) of this SMP must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.

5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

   a. Removal of native trees, shrubs or groundcovers;

   b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or

   c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

   Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Palouse Conservation District, and must contain information required in Subsection 4.3(B)(6) of this SMP. All mitigation plantings shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

7. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

8. Invasive species control.

   a. Hand removal or spot-spraying of invasive species or noxious weeks included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

   b. Mechanical removal of large-scale (greater than 200 square feet) chemical treatment of invasive species.

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allowed, mitigation shall address adversely impacted functions and processes in the

i. Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

ii. Coordination with the Palouse Conservation District is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.

iii. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

iv. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

c. Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

4.5

## 4.5 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

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A. Policies

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1. Maintain and improve the water quality and quantity of the City's shorelines, and preserve surface and groundwater for the beneficial use of the City's citizens and wildlife over the long term.

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

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

B. Regulations

1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions.

2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

3. Requirements for new development.

a. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the City's storm water drainage requirements (Chapter 15.56 CMC) and the use of best management practices.

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b. Deviations from City standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.

6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

4.6

## 4.6 FLOOD HAZARD MANAGEMENT

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A. Policies

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1. Recognize and protect improvements that have been made to portions of the North and South Forks of the Palouse River for flood-control purposes, including concrete walls, drains, riprap levees, fences, access roads and other parts and components of said flood- control improvements.

2. Recognize and protect the hydrologic functions of floodplains in areas of the City not already modified for flood control by limiting the use of structural flood hazard reduction measures, except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

3. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

4. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

1. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 6 (Frequently Flooded Areas) of Appendix B, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review at City Hall. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

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~~2.~~ allowed, mitigation shall address adversely impacted functions and processes in the

3. The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 6 (Frequently Flooded Areas) of Appendix B:

~~3.~~

a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

c. Existing and ongoing agricultural activities provide that no new restrictions to channel movement are proposed.

d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs.[1] Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

[1] ~~For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine allowed, mitigation shall address adversely impacted functions and processes in the affect shoreline.~~

e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geomorphological processes normally acting in a natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated the river or stream.

f. Water-dependent installations which by their very nature must be in the floodway.

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

h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

i. Uses and developments allowed in the floodway under Section 6 (Frequently Flooded Areas) of Appendix B, provided they are otherwise consistent with all provisions of this SMP.

4. New flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require new structural flood hazard reduction measures within the channel migration zone or floodway.

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allowed, mitigation shall address adversely impacted functions and processes in the

6. New public and private structural flood hazard reduction measures:

   a. Shall not be approved, unless a scientific and engineering analysis demonstrated the following:

~~[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine allowed, mitigation shall address adversely impacted functions and processes in the affect shoreline.~~[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]

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      i. That they are necessary to protect existing development;
      ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;
      iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;
      iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;
      v. That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,
      vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

~~unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]~~

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   b. Shall be consistent with an approved comprehensive flood hazard management plan.
   c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible and determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. Vegetation on flood hazard reduction measures. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing City-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply.

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allowed, mitigation shall address adversely impacted functions and processes in the

a. Along levees and other flood control works subject to the U.S. Army Corps of Engineers standards, the levee prism plus 15 feet from the levee toe or to the property boundary, whichever is less, is required to be free from shrubs, brush and trees larger than two inches in diameter.

b. In other circumstances, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 6.3 (Dredging and Dredge Material Disposal) of this SMP and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

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allowed, mitigation shall address adversely impacted functions and processes in the

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## 4.7 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

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A. Policies

1. Regulate archaeological, historic, and cultural resources.

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2. Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

B. Regulations

1. Permits issued in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:
   a. If any of the following are met, the project will be exempt from taking action:
      i. Prior negative archaeological survey is on file
      ii. No ground disturbance will occur
      iii. The project is in 100 percent culturally-sterile fill
   b. If no known cultural resources are present, the Department of Archaeology and Historic Preservation Predictive Model shall be applied and the survey recommendations shall be followed according to the associated risk identified.
   c. Inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes prior to initiation disturbance. The resource shall be avoided or a mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant.
2. In accordance with state law:
   a. In the event that human remains, burials, funery items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.
   b.. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53.060 shall be adhered to.

4.8

## 4.8 PUBLIC ACCESS

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A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety by recognizing that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access. .

2. Recognize that the portions of the waterway that have been modified with concrete walls are closed to human access unless specifically authorized by City Council, the City Administrator, the Mayor, or the Director of Public Works for the safety of the people of the City of Colfax.

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allowed, mitigation shall address adversely impacted functions and processes in the

3. Recognize that improvements have been made to the waterway within the City of Colfax for flood-control purposes, including concrete walls, drains, riprap levees, fences, access roads, and other parts and components of said flood-control improvements, and that it is unlawful for non-authorized personnel to modify or interfere with these improvements.

4. Consistent with the overall best interest of the state and the people of the City of Colfax, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views regulating the design, construction, and operation of permitted uses in the City's shoreline jurisdiction.

5. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals identified in any County or City parks, recreation, and/or open space plans.

~~5.~~

B. Regulations

1. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.

2. In compliance with RCW 36.87.130, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.

3. Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions

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allowed, mitigation shall address adversely impacted functions and processes in the

and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

4. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
   a. The development is proposed or funded by a public entity or is on public lands;
   b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;
   c. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as nonwater-oriented commercial or industrial use; or
   d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline area or waterbodies subject to the Public Trusst Doctrine.
   e. The proposed use is a multiunit residential development or a subdivision of land for more than four parcels.

5. An applicant shall not be required to provide public access where the City determines that one or more of the following conditions apply:
   a. Proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings;
   b. The proposed use, activity or development only involves agricultural activities;
   c. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;
   d. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;
   e. The economic cost of provident for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.
   f. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;
   g. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

6. Public access locations shall be clearly marked and available to the public.

7. The City may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

8. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

9. The City shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

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10. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

4.9

## 4.9 UNCLASSIFIED USES

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 7.6(G) (Shoreline Conditional Use Permit) of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

4.10

## 4.10 SHORELINE USE AND MODIFICATION TABLE

All uses and developments in the City's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

~~Table~~ 4.10-1 Shoreline Use and Modification Table

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | Flume | High Intensity | Aquatic |
|---|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | | |
| **Agriculture (See Section 5.1)** | | | | | | |
| Existing Agricultural Activities | Not regulated under this SMP | | | | | |
| New Agricultural Activities | P | P | P | P | X | N/A |
| Agricultural Related Activities | C | C | X | P | P | N/A |
| **Aquaculture (See Section 5.2)** | | | | | | |
| Commercial | X | X | X | X | X | X |
| Non-commercial | C | X | C | P | P | P |
| **Boating Facilities** | | | | | | |
| Over and In-Water Structures | X | X | X | X | X | X |
| Soft Launch Areas | P | X | P | X | P | See adjacent upland designation |
| **Breakwaters, Jetties, Weirs and Groins (See Section 6.2)** | | | | | | |
| To protect or restore ecological functions | P | P | P | P | P | P |
| All other purposes | X | C | C | C | C | See adjacent upland designation |
| **Commercial Development (See Section 5.4)** | | | | | | |
| Visitor-serving uses | C | C | C | P | P | N/A |
| Recreation concessions | P | P | P | P | P | N/A |
| Other nonwater oriented retail, trade or service | | | | | | |



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| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | Flume | High Intensity | Aquatic |
|---|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | | |
| Separated from Shoreline[2] | P | C | P | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | P | C | P | P | P | P |
| **Dredging and Dredge Material Disposal (See Section 6.3)** | | | | | | |
| Dredging | N/A | N/A | N/A | P[4] | N/A | P |
| Dredge Material Disposal[3] | C | C | P | P | P | X |
| **Fill and Excavation (See Section 6.4)** | | | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | P | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | C | N/A | C |
| Upland of the OHWM | C | P | P | P | P | N/A |
| **Forest Practices** | | | | | | |
| Forest Practices | X | X | X | X | X | N/A |
| **Flood Hazard Management (See Section 4.6)** | | | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P | P | P |
| New Facilities | C | C | C | P | P | See adjacent upland designation |
| **Industrial Development (See Section 5.5)** | | | | | | |
| Water-Oriented | X | X | X | P | P | C |
| Nonwater-Oriented | | | | | | |
| General | X | X | X | P | P | X |
| Separated from Shoreline[2] | X | X | X | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | X | X | X | P | P | C |
| **In-Stream Structures (See Section 5.6)** | | | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; protect water-dependent uses; or support agriculture | P | P | P | P | P | P |
| Other | X | C | C | P | P | See adjacent upland designation |
| **Recreational Development (See Section 5.7)** | | | | | | |



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| | | | | | | |
|---|---|---|---|---|---|---|
| Water-Oriented | P | P | P | P | P | P |
| Nonwater-Oriented | | | | | | |
| General | X | C | C | P | C | X |

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| Separated from shoreline[2] | P | P | P | P | P | N/A |
| Special Events/Temporary Activities | P | P | P | P | P | C |
| **Redevelopment, Repair, and Maintenance (See Section 5.11)** | | | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P | P | P |
| **Residential Development (See Section 5.8)** | | | | | | |
| Single-Family Dwelling | P | P | X | C | X | X |
| Multi-Family Dwelling | C | C | X | P | P | X |
| **Shoreline Restoration and Enhancement (See Section 6.5)** | | | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P | P | P |
| **Shoreline Stabilization (See Section 6.5)** | | | | | | |
| New Stabilization | P | P | P | P | P | P |
| **Transportation and Parking (See Section 5.9)** | | | | | | |
| Expansion of Existing Facilities | | | | | | |
| Expansion of Existing Overwater Transportation Facilities for Parking | N/A | N/A | N/A | C[5] | N/A | C[5] |
| Expansion of Existing Upland Transportation and Parking Facilities | P | P | P | N/A | P | N/A |
| Access Roads Serving Permitted Uses | P | P | P | P | P | N/A |
| Highways, Freeways, Arterials & Collectors | C | C | C | P | P | N/A |
| Bridges | C | C | C | P | P | C |
| Railways | C | C | C | P | P | C |
| Airstrips | X | X | X | X | X | N/A |
| Trails | P | P | P | P | P | N/A |
| Parking to Support Authorized Use | P | P | P | P | P | N/A |
| **Utilities (See Section 5.10)** | | | | | | |
| Expansion of Existing Utilities | P | P | P | P | P | C |
| Utility Services Accessory to Individual Shoreline Projects | P | P | P | P | P | C |
| Utility Services to Projects outside Shoreline Jurisdiction | C | C | C | P | P | C |
| Power Generating Facilities | C | C | C | P | P | C |
| Utility Transmission Lines | P | P | P | P | P | C |



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| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | Flume | High Intensity | Aquatic |
|---|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | | |
| Utility Services, General | P | P | P | P | P | C |
| Wastewater Treatment Facility | C | C | C | C | C | C |

[1] The determination of whether a permitted use requires a Shoreline Substantial Development Permit or is exempt from a permit depends on whether the specific proposal meets the criteria for a shoreline exemption as identified in Subsection 7.6(C) and WAC 173-27-040. This determination is made by the Shoreline Administrator as outlined in Subsection 7.2(A).
[2] Sites "separated from shoreline" are those sites physically separated from the shoreline by another property or public right of way.
[3] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.
[4] See Subsection 6.3(B)(4)(f).
[5] See Subsection 5.9(B)(6).

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## 4.11 SHORELINE DEVELOPMENT STANDARDS

A. Shoreline developments shall comply with all dimensional requirements of the Colfax Municipal Code.

B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. There shall be a 35-foot maximum building height for all structures, except that utility facilities and bridges are not required to meet this standard. To exceed 35 feet, an applicant must comply with the following criteria:

1. Demonstrate overriding considerations of the public interest will be served; and

2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

Water-oriented structures shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities designed to move or place products, storage facilities such as grain elevators, as well as accessory features such as lighting required for operations. All other structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 7.6(H)).



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D. Shoreline buffers: See Appendix B (Shoreline Critical Areas Policies and Regulations), Section 5.E.

~~D.~~

# ~~5.~~ 5. Shoreline Use Policies and Regulations

## 5.1 5.1 AGRICULTURE

A. Policies

1. Promote and maintain productive agricultural lands in shoreline jurisdiction where appropriate.
2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.
3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.
4. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.
5. Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

1. Appendix A (Definitions) of this SMP, WAC 173-26-020 (Definitions) and WAC 173-26- 241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
2. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.
3. SMP provisions shall apply in the following cases:
   a. New agricultural activities on land not meeting the definition of agricultural land;
   b. Expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
   c. Conversion of agricultural lands to other uses;
   d. Other development on agricultural land that does not meet the definition of agricultural activities; and
   e. Agricultural development and uses not specifically exempted by the SMP.
4. Feed lots and stockyards are prohibited in shoreline jurisdiction.



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5. Vegetative buffers consistent with Subsection 5.E of Appendix B shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection (B)(3).

6. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

7. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

8. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

5.2

## 5.2 AQUACULTURE

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A. Policies

1. Encourage aquaculture that supports the recovery of endangered or threatened fish species.

2. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.

3. Consider visual access and aesthetic quality of the shoreline in siting aquaculture facilities.

B. Regulations

1. Aquacultural facilities must be designed and located to avoid:
   a. The spreading of disease, especially to native aquatic life;
   b. Introducing new non-native species which cause significant ecological impacts;
   c. Significantly conflicting with navigation and other water-dependent uses;
   d. A net loss of ecological functions; or
   e. Significantly impacting the aesthetic qualities of and visual access to the shoreline

2. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, and commercial navigation. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

5.3

## 5.3 BOATING FACILITIES

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A. Policies

1. Give boating facilities priority for shoreline location where appropriate.

2. Design and construct boating facilities to result in no net loss of ecological functions.

3. Give preference to boating facilities that minimize the amount of shoreline modification. In support of this, community structures are encouraged.

4. Ensure new boating facilities are located only at sites where suitable environmental

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conditions, shoreline configuration, access, and compatible adjacent uses are present.

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Such facilities should be coordinated with applicable local, state and federal plans and, where feasible, collocated with other compatible water-dependent uses to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.

5. Ensure boating facilities are located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to navigation; and impacts to public access to the shoreline.

B. Regulations

1. Soft boat launches for public or non-residential private use may be allowed consistent with this SMP; no other boating facilities (e.g., docks) are allowed in the City of Colfax.

~~1.~~

2. New or expanded boat launch ramps may be approved only if they provide public access to waters that are not adequately served by existing access facilities or if use of existing facilities is documented to exceed the designed capacity.

3. General design standards.

a. Consistent with requirements for mitigation sequencing, all boat launches must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

b. Soft boat launches shall be constructed with materials that do not leach preservatives or other chemicals (including concrete and asphalt). Only clean, un-treated natural materials such as rock or wood may be used.

c. New public or commercial boat launch facilities must provide adequate restroom facilities.

4. General location regulations. New and expanded boat launches must be located to:

a. Minimize hazards and obstructions to public navigation rights.

b. Avoid blocking or obstructing lawfully existing or planned public shoreline access.

c. Minimize the need for new or maintenance dredging.

d. Eliminate the need for new shoreline stabilization, if feasible. Where the need for stabilization is unavoidable, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft may be allowed.

e. Allow for adequate water mixing and flushing and where water depths are adequate to eliminate or minimize the need for dredging or filling.

f. Minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.

5. General construction regulations.

a. Construction shall be completed during allowed in-water work windows.

b. Construction impacts shall be confined to the minimum area needed to complete the project.

c. The boundaries of clearing limits associated with site access and construction shall be flagged to prevent ground disturbance of riparian vegetation, wetlands, and other sensitive sites. This action shall be completed before any significant alternation of the project area.

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6. Replacement of boat launches. If any of the following are proposed during a five-year period, the project is considered a new boat launch and must comply with applicable standards for new boat launches.
   a. Replacement of the entire facility.
   b. Replacement of 75 percent or more of a boat launch, by area.

7. Modification or enlargement of boat launches.
   a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.
   b. Enlarged portions of boat launches must comply with applicable standards for new facilities.

8. Repair of boat launches.
   a. Repairs to legally establish boat launches are permitted consistent with all other applicable codes and regulations.
   b. All repairs must utilize any materials standards specified for new facilities.

9. Mitigation.
   a. Mitigation proposals must provide impact mitigation at a minimum one-to-one ratio, by area, using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
   b. For all new or expanded boat launches, appropriate mitigation may include one or more of the following measures. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function. Mitigation may not include measures that are already required by regulations.

      i. Removal of any legal existing over- or in-water structures that are not the subject of the application.
      ii. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.
      iii. Removal or ecological improvement of hardened shoreline. Improvement may consist of softening the face and toe of the hardened shoreline with soil, gravel and/or cobbles, and/or incorporating vegetation or large woody debris.
      iv. Removal of man-made debris waterward of the OHWM.
      v. Placement of large woody material if consistent with local, state and federal regulations.
      vi. Participation in an approved mitigation program.



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10. Submittal requirements. For all new or expanded boat launches, applicants must provide:

    a. An assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.

    b. A mitigation plan for unavoidable adverse impacts to ecological functions or processes, if applicable.

    c. An assessment of need and demand. At a minimum, the assessment shall include the following:

        i. Existing approved facilities, or pending applications, within the service range of the proposed new facility and relevant characteristics of those facilities, such as level of use and condition.

        ii. The expected service population and relevant characteristics of the population, including any characteristics that justify specific design elements of the proposed facility.

        iii. An assessment of existing water-dependent uses in the vicinity and potential impacts to those uses, and a description of proposed mitigation measures, if applicable.

## 5.4 5.4 COMMERCIAL DEVELOPMENT

A. Policies

1. Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-related and water-enjoyment uses should be prioritized over nonwater-oriented commercial uses.

~~1.~~

2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented or over-water uses should be encouraged to locate inland from the shoreline jurisdiction.

3. Encourage new commercial development to locate in areas where commercial development uses already exist, and ensure that it does not significantly reduce scenic views or result in net loss of shoreline ecological function.

B. Regulations

1. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP.

2. Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses. Water-related uses and water-enjoyment uses shall be given priority over nonwater-oriented uses.

3. Commercial development that is not water-dependent shall not be allowed over water except where it is located within an existing building or where they are necessary to support a water-dependent use.

4. Nonwater-oriented commercial development shall be prohibited unless they meet the following criteria:

    a. The use is part of a mixed-use project that includes water-dependent uses and



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provide a significant public benefit with respect to provision of public access or ecological restoration; or

b. Navigability is severely limited at the proposed site, and the commercial use provides a significant public befit with respect to provision of public access or ecological restoration

5. In areas of the shoreline designated for commercial uses, nonwater-oriented commercial uses may be allowed on sites physically separated from the shoreline by another property or public right-of-way.

6. New commercial developments shall provide public access to the shorelines.

7. Commercial development shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

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## 5.5 INDUSTRIAL DEVELOPMENT

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A. Policies

1. Recognize the importance of industrial uses to the City of Colfax and allow water-oriented industrial uses for location in appropriate areas along the shoreline.

2. Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines and other State and City requirements.

3. Ensure that existing and new development of industrial facilities is consistent with all Master Program Guidelines and achieves no net loss of shoreline ecological function.

B. Regulations

1. Industrial facilities that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.

2. In compliance with WAC 173-26-241(3)(f), industrial development shall be in accordance with the following regulations:

a. ~~a.~~ Industrial development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

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b. ~~b.~~ In the review of shoreline developments, the City shall give preference to water-dependent uses and then water-oriented industrial uses, in accordance with WAC 173-26-241(3)(f).

c. ~~c.~~ Regional and statewide needs for water-dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.

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d. ~~d.~~ Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporate public access as mitigation.

e. ~~e.~~ Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 4.8(B)(5) of this SMP.

f. ~~f.~~ Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

3. In accordance with WAC 173-26-241(3)(f), new nonwater-oriented industrial development shall be prohibited on shorelines except when:

a. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's obectives, such as providing pubic access and ecological restoration.

~~3.~~b. Navigability is severely limited at the proposed site; and the industrial use provide a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

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## 5.6 IN-STREAM STRUCTURAL USES

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A. Policies

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

B. Regulations

1. In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
    a. Projects designed to improve fish or wildlife habitat or fish passage must be consistent with RCW 90.58.147.

2. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.

3. In-stream structures shall not be a safety hazard or obstruct water navigation.

4. In-stream structures shall be designed by a qualified professional.

5. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place

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unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.

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## 5.7 RECREATIONAL DEVELOPMENT

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A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between County, City and state parks departments.
2. Prioritize shoreline recreational development that is related to access to, enjoyment and use of the water and shorelines of the state.
3. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.
4. Where appropriate, provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

~~4.~~

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions.
2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with City development standards.
3. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.
4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park or open space areas and trail access.
5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 5.3 (Commercial Development) of this SMP.
6. Special Events/Temporary Activities.

a. Special event such as festivals, fairs, and sporting events, may be located in shoreline jurisdiction, including within applicable buffers and setbacks, provided all of the following criteria are met:

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i. The event only places temporary structures within shoreline jurisdiction for a duration no longer than seven days. The SMP Administrator may approve an additional seven days if requested in advance of the expiration of the seven-day initial limit and if the criteria would continue to be met.
ii. The event does not require removal of any trees or shrubs within buffers.
iii. The event does not result in a loss of ecological functions or a degradation of water quality.
iv. In the Flume environment designation, temporary structures placed and temporary uses occurring below the OHWM shall only be conducted upland of the wetted channel.

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b. Management Plans. In order to simplify the future review of exempt and non-exempt special events/temporary activities that may be held on an annual or other regular basis, the proponent may develop five-year management plans in support of a five-year Shoreline Substantial Development Permit or Exemption addressing operations and maintenance, use of best management practices, and other measure to assure no not loss of shoreline ecological function. The City may require applicants for special events/temporary activities that have the potential to interfere with shoreline use or adversely alter shoreline ecological conditions to prepare a management plan.

i. Management plans for special events/temporary activities shall minimally contain the following categories when applicable:

   a) Description of any necessary aquatic habitat or other critical area protection measures, and commitment to implement mitigation for any activity that has adverse impacts.

   b) Description of any necessary stormwater management practices to reduce potential water quantity and water quality impacts, and commitment to implement mitigation for any activity that has adverse impacts.

   c) Description of the kind and duration of any interference with shoreline public access, and measures to minimize interference.

   ~~c)~~

ii. Each category specified in (b)(i) above shall be comprised of one to several standards. Each standard should describe the management objective or desired outcome, specific performance requirements for each standard, and corrective actions that would be implemented if the performance requirement(s) is not met.

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5.8

## 5.8 RESIDENTIAL DEVELOPMENT

A. Policies

1. Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.
2. Residential development in the City of Colfax should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function.
3. Residential development should aim to minimize environmental impact through ecological restoration and other measures.
4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

~~4.~~

5. Prohibit new floating homes.

B. Regulations

1. Residential development shall comply with all applicable subdivision, critical area, and zoning regulations and be consistent with applicable SMP environment designations and standards.
2. Single-family residences are considered a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Single-family residences are permitted in the Urban Conservancy, Shoreline Residential, and Flume environment designations with a Shoreline Substantial Development Permit or Shoreline Exemption.
3. New residential lots created through land division shall be in accordance with the following:

   a. Comply with all applicable subdivision and zoning regulations.

   b. Plats and subdivision must be designed, configured and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out lots.

   c. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

4. Residential development, including accessory uses and appurtenant structures, shall:

   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.

   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.

   b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not requires to protect such structures and uses.

   ~~b.~~ Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.



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~~c.~~ Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

5. New floating homes shall be prohibited.

6. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use.

7. In accordance with Subsection 4.8(B)(4)(e) of this SMP, new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access.

5.9

## 5.9 TRANSPORTATION AND PARKING

A. Policies

1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.

2. Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.

3. Promote trail connections that are consistent with local and regional plans.

4. Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing proposed shoreline uses that are consistent with this SMP.

B. Regulations

1. Transportation and parking plans and projects shall be consistent with this SMP public access policies, public access planning, and provisions on environmental protection.

2. Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate, and all circulation plans and projects shall support existing and proposed shoreline uses that are consistent with this SMP.

3. Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible and adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

~~4.~~ 4. New roads, road expansions, bridges, or railroads shall not be built within shoreline jurisdiction unless other locations are not feasible and/or costs would be disproportionate and unreasonable to the total long-term cost of the development or

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infrastructure investment. When new roads, road expansions, bridges, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:

a. Minimize possible adverse effects on unique or fragile shoreline (See Mitigation section in Appendix B(2)).

b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.

c. Set back from the OHWM of the Aquatic designation to allow for a usable shoreline area for vegetation conservation and preferred shoreline sues unless infeasible.

~~5.~~4. Upland parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking shall:

a. Be sited outside of shoreline jurisdiction unless:

i. the proponent demonstrates that an alternate location would have fewer adverse impacts to the shoreline and critical areas, and adjacent uses;

ii. no other feasible location upland of the area served is possible due to topographical or other physical constraints;

iii. another location is not feasible due to the presence of existing transportation facilities or traffic engineering standards; and/or

iv. Americans with Disability Act (ADA) standards require otherwise.

b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

c. Observe all regulations regarding critical areas and shoreline buffers.

d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extend feasible

~~6.~~5. New over-water parking facilities, as a primary use, are prohibited per WAC 173-26-211(5)(c)(ii)(A). Over-water parking shall be allowed only in the Flume environment when all of the following conditions are met:

a. As an expansion or redesign of an existing over-water structure, demonstrating that the minimum amount of expansion necessary to achieve the project goals and objectives was employed;

b. When approved by the U.S. Army Corps of Engineers, the Washington Department of Fish and Wildlife, and any other entities with authority over the Flume environment;

~~b.~~

c. When it can be demonstrated that the net effect of the project, including mitigation, will be an improvement in shoreline ecological functions (see Mitigation section in Appendix B(2));

d. When the over-water parking is necessary to support existing legal developments and uses, and it cannot be sited in upland areas or outside of shoreline jurisdiction;

e. If the design and construction of the over-water parking observes all other regulations of this SMP and the City with respect to short- and long-term stormwater runoff management; and

f. If the design of the over-water parking incorporates a means for pedestrian access and river viewing, and incorporates design elements that minimize aesthetic and environmental impacts.

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7. The provisions of Appendix B, Section 6 (Frequently Flooded Areas) of this SMP shall be addressed in the design of transportation facilities.

## 5.10 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.
2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. All utility facilities shall be designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
2. Utility production and processing facilities, such as sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible.
4. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement corridor over new locations.
5. Development of pipelines and cables and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions shall be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.
6. Existing utility services routed through shoreline areas shall not be a sole justification for more intense development.

## 5.11 REDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

A. Policies

1. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Appendix A (Definitions) of this SMP, unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.
2. Legally established uses and developments may be maintained, repaired, and operated within



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shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.

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3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:
   a. The SMP Administrator shall determine the extent of compliance with SMP provisions.
   b. The requires provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply. If vegetation is removed beyond normal maintenance, vegetation conservation and shoreline bugger standard may apply.

# 6. Shoreline Modification Policies and Regulations

## 6.1 GENERAL REQUIREMENTS

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

~~2.~~

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

2. As much as possible, the number and extent of shoreline modifications shall be limited.

3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing. As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

## 6.2 BREAKWATERS, JETTIES, WEIRS, AND GROINS

A. Policies

1. Allow breakwaters, jetties, weirs, and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.



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B. Regulations

1. New, expanded or replacement structures shall only be allowed if it can be demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Breakwaters, jetties, weirs and groins shall be limited to the minimum size necessary.
3. Breakwaters, jetties, weirs and groins must be designed to protect critical areas, and shall implement mitigation sequencing to achieve no net loss of ecological functions.
4. Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.

6.3

## 6.3 DREDGING AND DREDGE MATERIAL DISPOSAL

A. Policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

~~3.~~

B. Regulations

1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Section (4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.
2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. Dredging may only be permitted for the following activities:
   a. Development of water-dependent industries of economic important to the region only when there are no feasible alternatives or other alternatives may have a greater ecological impact.
   b. Development of essential public facilities when there are no feasible alternatives.
   c. Maintenance of irrigation reservoirs, drains canals or ditches for agricultural purposes.
   d. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.

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e. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, if feasible, impacts to fish and wildlife habitat are avoided to the maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

f. In the Flume environment designation, accumulated sediments may be removed from the concrete-lined channel as an exempt maintenance activity; to the extent feasible, work should be conducted when the excavation area is above the water line.

5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

6. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:
   a. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and
   b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

7. Dredge material disposal in open waters may be approved only when authorized by applicable state and federal agencies, and when one of the following conditions apply:
   a. Land disposal is infeasible, less consistent with this SMP, or prohibited by law.
   b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

8. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:
   a. A description of the purpose of the proposed dredging activities.
   b. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.
   c. A description of proposed dredging operation, including, but not limited to:
      i. The method of removal.
      i. The length of time required.
      ii. The quantity of material to be initially removed.
      iii. The frequency and quantity of projected maintenance dredging.
   d. A description of proposed dredge material disposal including, but not limited to:
      i. Size and capacity of disposal site.
      ii. Means of transportation to the disposal site.
      iii. Future use of the site and conformance with land use policies and regulations, if applicable.
      ~~iii.~~
   e. Plans for the protection and restoration of the shoreline environment during and after dredging operations.
   f. An assessment of potential impacts to ecological functions or processes from the proposal.
   g. A mitigation plan to address identified impacts, if necessary.



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## 6.4 FILL AND EXCAVATION

A. Policies

1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.

2. Encourage fill when it is associated with restoration projects.

B. Regulations

1. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated.

2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when necessary to support one or more of the following:

   a. Water-depending uses.

   b. Public access.

   c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

   d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.

   e. Expansion or alteration of transportation facilities of statewide significant currently located on the shoreline where alternatives to fill are infeasible.

   f. Ecological restoration or enhancement when consistent with an approved restoration plan.

   g. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.

   h. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

3. Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

4. All fills, except fills for the purpose of shoreline restoration, must be designed:
   a. To be the minimum size necessary to implement the allowed use or modification.
   b. To fit the topography so that minimum alterations of natural conditions will be necessary.
   c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potentialto degrade water quality and shall be obtained from a state-authorized source.

6. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the City's storm water drainage regulations, shall be provided for all proposed fill activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

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6.5

## 6.6 SHORELINE RESTORATION AND ENHANCEMENT

A. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, and/or U.S. Fish and Wildlife Service.
2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the City or other entities.
4. Develop application processing guidelines that will streamline the review of restoration- only projects.
5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

B. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.
2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.
3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.
6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.



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## 6.6 6.7 SHORELINE STABILIZATION

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A. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.
2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.
3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.
4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.
5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

B. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.
   a. Land subdivision must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.
   b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.
2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows
   a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion cause by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

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b. In support of new nonwatery-dependent development, including single-family residences, when all of the conditions below apply:

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

   ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

   iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.

c. In support of water-dependent development when all of the conditions below apply:

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

   ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.

   ~~ii.~~

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

d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

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a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

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b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structure shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

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c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

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~~d.~~ Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

   a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

   b. If within a three-year period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

   c. Any additions to or increases in size of existing shoreline stabilization measurs shall be considered new structures.

   d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

   ~~7.~~ e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

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~~c.~~ Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

~~e.~~ Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

   a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

   b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

   c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

~~8.~~



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b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

~~9.~~ a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

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v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

~~v.~~ b. For replacements of existing hard structural shoreline stabilization measures with a

b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

~~vi.~~ c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

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# 7. Administration and Permitting

## 7.1 GENERAL COMPLIANCE

RCW 90.58.140(3) requires the City to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

## 7.2 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

A. SMP Administrator

The City shall designate an SMP Administrator, which shall be the City Administrator or his or her designee. The SMP Administrator or his/her designee is hereby vested with the authority to:

1. Administrate this SMP.
2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.



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3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.

4. Make field inspections as needed, and prepare or require reports on shoreline permit applications.

5. Make written recommendations to the Board of Adjustment, Planning Commission and City Council as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustment regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and City Council.

6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.

7. Determine and collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be established by resolution of the City Council.

8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Colfax Municipal Code.

C. Board of Adjustment

The Board of Adjustment is authorized to:

1. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.

2. Decide on appeals of administrative decisions issued by the Administrator of this SMP.

D. Planning Commission

The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

E. City Council

The City Council is authorized to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173- 26-100.

2. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

7.3

## 7.3 ADMINISTRATION

A. This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and



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enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

B. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the CMC 17.12 (General and Supplementary Regulations) and Section 7.6 (Shoreline Permits and Exemptions) of this SMP.

C. Shoreline Variances shall be processed in the same manner as a variance from the City's zoning code and shall be subject to all applicable provisions of CMC 17.24.020 (Appeal for Variance) and 17.24 (Board of Adjustment) and Section 7.6 (Shoreline Permits and Exemptions) of this SMP.

D. Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).

E. The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

7.4

## 7.4 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The City of Colfax is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. This Program will be enforced by the means and procedures set forth in the Colfax Municipal Code.

7.5

## 7.5 SHORELINE ACTIVITY TRACKING

A. Tracking

The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring
6. Net change in linear feet of flood hazard structures
7. Net changes in vegetation (area, character)

B. No Net Loss Report

Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the City's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Shoreline Analysis Report, changes to the SMP



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and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

7.6

## 7.6 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the City. At a minimum, the City shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Colfax Municipal Code.

2. Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Exemptions from a Substantial Development Permit - Application and Interpretation

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

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

4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

5. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

1. The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter of Exemption, as provided for in Subsections (B) and (D) of this Section.

2. Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.

3. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

   a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under



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chapter 70.105D RCW.

b. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

c. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

d. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

4. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

D. Letter or Statement of Exemption

1. Letters of Exemption.

a. A required Letter of Exemption shall be issued by the City when a development application is determined to meet the listed criteria for an exemption and the development is required to obtain a section 404 permit under the Federal Water Pollution

~~a.~~

Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

~~b.~~

The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

~~Statement of Exemption.~~A required Letter of Exception shall be issued by the City when a development application is determined to meet the listed criterial for an exception and the development is required to obtain a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area.)

b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

~~2.~~

a. The City may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act. Statements of Exemption are encouraged to be obtained by applicants whose projects meet any of the exemptions listed in Subsection 7.6(C), and which may alter or disturb the ground or vegetation. The Statement of Exemption shall be sent to the applicant.

2. Statement of Exemption.

a. The City may grant or deny requests for Statements of Exception from the Shoreline



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Substantial Development Permit requirement. The statement shall be in writing and shall indicate the specific exception of this Program that is being applied to the development and shall provide a summary of the analysis of the consistency of the project with this Program and the Act. Statements of Exception are encouraged to be obtained by applicants whose projects meet any of the exceptions listed in Subsection 7.(6), and which may alter or disturb the ground or vegetation. The Statement of Exception shall be sent to the applicant.

~~3.~~ 3. Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

E. Permit application submittal requirements

1. Shoreline applications are classified as follows:

a. Shoreline Substantial Development Permit

a. Shoreline Substantial Development Permit

b. Shoreline Conditional Use Permit

c. Shoreline Variance

d. Shoreline Exemption

2.

~~b. Shoreline Conditional Use Permit~~

c. Shoreline Variance

d. Shoreline Exemption

~~1.~~ Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the City, including a combined permit application form.

~~2.~~ 3. The contents of permit applications must be consistent with WAC 173-27-180 and Colfax Municipal Code.

~~3.~~ 4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

~~4.~~ 5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.

~~5.~~ 6. At the time of application, the applicant must pay the application fee.

F. Shoreline Substantial Development Permit Required

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 7.6(B) (Exemptions from a Substantial Development Permit) of this Section or is not subject to the SMP per Section 1.5 (Applicability).

~~1.~~

2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is



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consistent with:

a. The policies and procedures of the SMA;

b. The provisions of WAC 173-27; and

~~2.~~c. This SMP.

~~a.~~ The policies and procedures of the SMA;

b. The provisions of WAC 173-27; and

~~c.~~ This SMP.

~~3.~~ 3. The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

~~4.~~ 4. Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Board of Adjustment and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and CMC 17.24.060 (Conditional property uses).

2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.

5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Chapter 17.24 CMC.

2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.



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3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.

~~3.~~

4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the County to Ecology upon a final decision by the County consistent with WAC 173-27-130 (Filing with department), and then processed by Ecology consistent with WAC 173-27-190 (Permits for substantial development, conditional use, or variance) and WAC 173-27-200 (Department review of conditional use and variance permits).

J. Time limits.

Construction and activities authorized by a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance are subject to the time limitations of WAC 173-27- 090.

K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

7.7

## 7.7 NON-CONFORMING USES, STRUCTURES, LOTS

A. Nonconforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable City regulations.

B. Non-conforming Uses

1. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.

2. If a nonconforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use.

3. In accordance with CMC 17.12.010(A), when a nonconforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires



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and further use of the structure or lot must be in compliance with the provisions of this Master Program.

4. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

C. Non-conforming Structures

1. Structures that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this Program.

D. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

E. Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

1. Alteration, expansion, or restoration of nonconforming structures and uses are not allowed except as set forth in this Master Program and in Colfax Municipal Code 17.12.010.

2. In accordance with CMC 17.12.010(B), any nonconforming building which has been destroyed or damaged to the extent of sixty percent or more of its fair market value shall thereafter conform to all rules, laws and ordinances of the city and this SMP. Where more than forty percent of the fair market value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage.

3. Any nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with this Master Program and the SMA.

4. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this Section shall apply as they apply to pre-existing nonconforming structures and uses.

5. Legally existing structures 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, unless a shoreline variance permit is obtained. Alteration or expansion of a nonconforming use or structure is not allowed except upon approval of a conditional use permit, or if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

F. Pre-existing Legal Residential Uses. Notwithstanding Subsections (A) to (D) of this Section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Chapter:

1. Residential structures and appurtenant structures that were legally established, located landward of the ordinar high-water mark, and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or



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yards; area; bulk; height; or density.

~~1.~~

~~2.~~ The City shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed upon approval of a conditional use permit.~~.~~

2.

3. Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location subject to CMC 17.12.010(B), which allows reconstruction within two years of the date of the casualty.

4. For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

5. Nothing in this Section shall:

a. Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

~~5.~~b. Affect the application of other federal, state, or City requirements to residential structures.

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a. Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

b. ~~Affect the application of other federal, state, or City requirements to residential structures.~~

## 7.8 7.8 DEBRIS ACCUMULATION AND OBSTRUCTION

Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, Chapter RCW 90.58, and CMC Chapter 13.12, the following activities shall be prohibited in shoreline jurisdiction:

A. Outside Storage.

The outside storage within the shoreline jurisdiction of abandoned, discarded or unused objects or equipment, excluding operational farm-related equipment or material; including but not limited to tires, household furniture, stoves, refrigerators and freezers which are visible by ordinary view from an adjacent property or roadway.

B. Outside Accumulation.

The outside accumulation within the shoreline jurisdiction of two or more cubic yards of waste, rubbish or trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded or unused material, unless kept in covered bins or receptacles or specifically authorized as a permitted use.

C. Vehicle and Boats.

The presence of any unattached vehicle or boat parts or six or more abandoned or inoperable vehicles and/or boats that have remained in the same location or on the same contiguously owned property for more than sixty consecutive days, within the shoreline jurisdiction.

D. Acts or Omissions.

An act, or omitting to perform a duty, which act or omission either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or
3. In any way renders other persons insecure in life, or in the use of property.

E. Throwing Debris.

Throwing, depositing, or scattering in, about, or upon the Palouse River and the South Palouse River within the City of Colfax any material of any kind whatsoever, unless it is specifically authorized in writing by the City Council, the City Administrator, the Mayor, or the Director of Public Works.



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## 7.9 7.9 AMENDMENT OF SHORELINE MASTER PROGRAM

A. Purpose of amendment

This SMP carries out the policies of the Shoreline Management Act for the City of Colfax. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and

2. Assure consistency of this SMP with the City's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date

This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

C. Amendment process

1. Future amendments to this SMP may be initiated by any of the following:

   a. City of Colfax SMP Administrator;

   a. City of Colfax SMP Administrator;

   b. The City Planning Commission, upon their initiative, or at the requet of the City Council by motion, or at the request of the SMP Administrator; and

   c. The City Council

   b. The City Planning Commission, upon their initiative, or at the request of the City Council by motion, or at the request of the SMP Administrator; and

   c. The City Council.

2. Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the City. Such applications shall contain information specified in the City's procedures for regulation amendments and information necessary to meet minimum public review procedures.

3. The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

4. 4. Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the



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application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to City Council, who shall approve or deny the proposed amendment following their open record hearing.

~~5.~~ 5. Prior to approval, the City shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):

a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

~~a.~~ The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

b. The proposed amendment would make this Program more equitable in its applications to person s pr property due to changed conditions in an area; and

c. The program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of June 2014 (the Final Shoreline Analysis Report.)

~~b.~~ The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and

~~c.~~ This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of June 2014 (the Final Shoreline Analysis Report).

~~6.~~ 6. After approval or disapproval of a SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.



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# Appendix A -- ~~D~~Definitions

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# APPENDIX A - DEFINITIONS

A

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

**Accessory dwelling unit**. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory use or structure**. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

**Act**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent**. To be nearby and not necessarily abutting.

**Administrator or SMP Administrator**. The City Manager or designee charged with the responsibility of administering the City of Colfax SMP.

**Advance mitigation**. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area repot and prior to site development.

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

**Agricultural equipment and agricultural facilities**. Includes, but is not limited to:

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

**Agricultural land**. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to WAC 173-26 as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

**Agricultural related industries**. Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands**. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Alkali wetlands**. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

**Amendment**. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Appeal**. A request for a review of the interpretation of any provision of this Chapter or a request for a variance.

**Applicant**. A person who files an application for permit and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

**Approval**. An official action by a local government legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this chapter; or an official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture**. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer**. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer, sole source**. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Associated wetlands**. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

B

**Base flood or 100-year flood**. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. Designations of base flood areas on flood insurance map(s) always include the letters A or V. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the City of Colfax; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City of Colfax.

**Best management practices or BMP.** Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

**Board of Adjustment**. The City of Colfax Board of Adjustment.

**Boat launch.** An area that is developed for boating ingress and egress from the water.

**Boating facilities**. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.

**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

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2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;

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3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

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**Channel migration zone or CMZ**. The area along a river within which the channel can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Comprehensive Plan**. The officially adopted document and any amendments or supplements thereto adopted by the City of Colfax, which sets forth policies and standards for determining the best use of land and other resources of the City.

**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property,

therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical Habitat**. Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

D

**Dairy**. A farm operation producing milk products for commercial sales.

**Developable area**. A site or portion of a site that may be utilized as the location of development.

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.
5. Dismantling or removing structures if there is no other associated development or re-development.

**Development permit**. Any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by the City of Colfax, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification of

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essential public facilities and regional transportation facilities; restoration (of which the primary

restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this Master Program or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 6.3 (Dredging and Dredge Material), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

E

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**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Enhancement**. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

**Erosion**. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas containing soils identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard and may experience significant erosion (WAC 365-190-120(5)). Erosion hazard areas also include channel migration zones.

**Excavation**. The mechanical removal of earth materials.

**Exempt**. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

F

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

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action.

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

**Federal Emergency Management Agency (FEMA)**. The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and non-commercial activities.

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

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Subsection 5.A of Appendix B.

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood Insurance Rate Map (FIRM)**. 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**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Flume.** The name assigned to the environment designation that encompasses the concrete-lined channel of the Palouse River and the shorelands extending 200 feet upland of the ordinary high water mark. A “flume” is traditionally an artificial conveyance for water. See Subsection 3.3(D).

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological

importance, educational opportunities, and recreation. These beneficial roles are not listed in order of priority.

G

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**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.
3. Rough grade is a stage where grade conforms approximately to an approved plan.
4. Finish grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin**. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also “Weir.”

**Groundwater**. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines**. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

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H

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

**Hard stabilization**. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**High intensity land use**. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, some agricultural practices, and commercial and industrial land uses.

**Houseboat or floating home**. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

**Hydric soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

I

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**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation,

irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-Rill.** Areas subject to sheet wash.

**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

J

**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

L

**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. For a complete definition, see WAC 365-190-120(6).

**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

M

**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**Manufactured house**. A new house constructed in accordance with state and federal requirements for manufactured houses, which:

1. Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;
2. Was originally constructed with and now has a composition of wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;
3. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences; and
4. A structure, transportable in one or more sections, which is built on a permanent chassis and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

~~4.~~

**Master Program**. The comprehensive shoreline master program for the City of Colfax, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at

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least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mine hazard areas**. Those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or air shafts.

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. The use of any or all of the following actions that are listed in descending order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;
4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses use or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Mobile home.** A transportable, factory-built house, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, or a similar-type house built after said date which does not match the definition of "manufactured house."

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.
N

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level. For purposes of reviewing and approving

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this SMP, “current” is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts

of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Non-conforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 City and so long as development conforms to all other requirements of this Master Program and the Act.

**Non-conforming Use**. An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.~~Any property use, building, and/or structure in violation of any rule, law or ordinance of the city, which property use, building and/or structure was in compliance with all rules, laws and ordinances when the building or structure was originally constructed or when the current property use first began.~~

**Non-conforming Structure/Development.** A building, structure or land use which was lawfully established, existing and maintained at the effective date of the provisions of this Chapter but which because of the application of this Chapter to it, is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water-enjoyment.

O

**Off-Site Compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-Site Compensation**. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

**Ordinary high water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

P

**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

**Porous soil types**. Soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices or other openings which allow the passing of water.

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**Potable water**. Water that is safe and palatable for human use.

**Poultry**. Domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

**Practical Alternative**. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Priority habitat and species (PHS)**. As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(28-29)).

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or City zoning are not considered appropriate and are not allowed.

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

Q

**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

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1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

R

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**Recharge**. The process involved in the absorption and addition of water to groundwater.

**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreational Development.** Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

**Recreational vehicle**. A vehicle which is:

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.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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

**Residential**. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

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**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic hazard areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, surface faulting, or tsunamis.

**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback, Building.** The minimum distance the foundation of a building must be located upland of the ordinary high water mark or the upland edge of a shoreline or critical area buffer.

**Shall**. A mandate; the action must be done.

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

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except:

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1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

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**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**Shorelines of statewide significance**. The following shorelines of the state:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark; [not found in Colfax]
2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer; and
3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

**Should**. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this SMP, against taking the action.

**Significant adverse effect/impact.** Any noticeable or measurable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**SMP Administrator.** See "Administrator."

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

**Special flood hazard areas**. The land in the floodplain within an area subject to a one percent (1%) or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

**Special protection areas**. Aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characte1istics, including, but not limited to:

1. Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;
2. Ground water recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and
3. Sole source aquifer status.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

**Species, priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation

ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to

construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $7,047~~6,416~~, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be adjusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

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**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the City's SMP Administrator and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

**Substantially degrade**. To cause significant ecological impact.

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**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

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**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This

definition includes the construction, erection, placement, movement or demolition of any structure or.

site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in the City of Colfax if it were not for the presence of tourists or visitors to the region.

W

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. 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**. Any water-dependent, water-related, or water-enjoyment use.

**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or

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shipment of materials by water or the need for large quantities of water; or

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

**Water table**. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, or other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Well**. A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

**Wetland**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland category**. "Wetland category" is one of four categories assigned to wetlands when using Ecology's *Washington State Wetland Rating System for Eastern Washington* publication #14-06-030 (or as amended). The categories lump wetlands together which have similar sensitivity to disturbance, rarity, and functions. The three functions rated include water quality improvement, hydrologic support, and habitat.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

**Wetland functions**. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

# ~~Appendix B~~

# ~~Shoreline Critical Areas Policies and Regulations~~

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# APPENDIX B –
# SHORELINE CRITICAL AREAS POLICIES AND REGULATIONS

## 1. 9.1 Policies

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 2. 9.2 General Regulations

A. Purpose, intent and applicability.

1. The purpose of this chapter is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with state law while allowing for reasonable use of private property. By adopting this chapter, the City of Colfax acknowledges ~~that critical areas provide a variety of important~~ biological and physical functions that benefit the community and its residents or may pose a threat to human safety or property.
The critical areas within the City of Colfax's shoreline jurisdiction regulated by this section include:
a. Wetlands as designated in Section 3 of this Appendix B,
b. Critical aquifer recharge areas as designated in Section 4 of this Appendix B,
c. Fish and wildlife habitat conservation areas as identified in Secntion 5 of this Appendix B,
d. Frequently flooded areas as designated in Section 6 of this Appendix B; and
e. Geologically hazardous areas as designated in Section 7 of this Appendix B.

a. Wetlands as designated in Section 3 of this Appendix B,
b. ~~Critical aquifer recharge areas as designated in Section 4 of this Appendix B,~~
c. Fish and wildlife habitat conservation areas as identified in Section 5 of this Appendix B,
d. ~~Frequently flooded areas as designated in Section 6 of this Appendix B; and~~
e. Geologically hazardous areas as designated in Section 7 of this Appendix B.

2. All areas within the City's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section.

3. Any development proposed on a parcel of land within the critical areas in shoreline jurisdiction shall be subject to project review as required in this section unless specifically exempted.

4. If a critical area is located on a property that is located partly in the City's shoreline jurisdiction and partly in unincorporated Whitman County's shoreline jurisdiction, the City's SMP Administrator shall coordinate with Whitman County in the review of the project. In the event of differences in the regulations, the more restrictive shall take precedence.

B. Permitted, conditional and prohibited uses.

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Uses allowed by Shoreline Exemption, a Shoreline Substantial Development Permit, or by Shoreline Conditional Use Permit, or uses altogether prohibited within critical areas, shall be the

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same as those allowed in the underlying zoning district and environment designation as established in this SMP.

C. General Regulations.

1. Shoreline permits or shoreline exemptions, and any other City-required permits, for activities within critical areas in shoreline jurisdiction, shall be subject to review under provisions of this Section unless specifically exempted from a critical areas report in Subsection (C)(3) of this Section. As part of this review, the City shall:

a. Verify the information submitted by the applicant;

a. Verify the information submitted by the applicant;

b. Evaluate the project area and vicinity for critical areas;

c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

b. Evaluate the project area and vicinity for critical areas;

c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

Critical Area Report.

2. a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and completed scientific and technical information available as part of its analysis. Critical areas ports must contain the following:

a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:

i. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

ii. A copy of the site plan for the development proposal including:

a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential

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construction;

iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;

v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

vii. An analysis of site development alternatives including a no development alternative;

viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) of this SMP to avoid, minimize, and mitigate impacts to critical areas;

ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with the mitigation plan requirements in 4.3(B)(6) of this SMP, including, but not limited to:

a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.

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~~b)~~

x. A discussion of the performance standards applicable to the critical area and proposed activity;

xi. Any additional information required for the critical area as specified in the corresponding section.

b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

~~xi.~~ b. Unless otherwise provided, a critical area report may be supplemented by or composed, in while or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

3. The following activities shall be allowed in critical areas and their buffers without a critical areas report provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area:

a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including fishing, hunting, bird watching, hiking, horseback riding and bicycling;

c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

d. Education, scientific research and use of nature trails;

e. Existing and ongoing agriculture activites, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals;

f. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

g. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change or character or scope or construction of a maintenance road;

h. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

i. Select Vegetation Removal Activities. Select vegetation removal activities area allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

j. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

k. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, the impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

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3.

a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including fishing, hunting, bird watching, hiking, horseback riding and bicycling;

c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

d. Education, scientific research and use of nature trails;

e. Existing and ongoing agriculture activities, including farming, horticulture, aquaculture, irrigation, ranching or grazing of animals;

f. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

g. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;

h. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

i. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

j. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

k. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case,

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~~restored.~~

D. Protection of Critical Areas.

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with mitigation sequencing requirements in Subsection 4.3(B)(4) of this SMP to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

E. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the County a mitigation plan as part of the critical area report. The ~~m~~mitigation plan shall include:

~~4.~~ a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

iii. An analysis of the likelihood of success of the compensation project.

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Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

~~c.~~ Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

i. The proposed construction sequence, timing, and duration;

ii. Grading and excavation details;

iii. Erosion and sediment control features;

iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

v. Measures to protect and maintain plants until established.

~~v.~~

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1,3, and 5 after site construction), and how the monitoring datea will be evaluatedto determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be montiros for a period necessary to establish that performance standards have been met, but not for a period fess than five (5) years.

e. Contingency Plan. The mitigation plan shall include identification of potential course of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Innovation Mitigation.

a. The City may approve innovation mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the

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provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake mitigation project together if it is demonstrated that all of the following circumstances exist:

i.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. ~~Innovative Mitigation.~~

a. The City may approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

~~i.~~ Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

~~ii.~~ ii. The group demonstrates the organizational and fiscal capability to act cooperatively;

~~iii.~~ iii. The group demonstrates that long-term management of the habitat area will be provided; and

~~iv.~~ iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

F. Review Criteria.

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. sequencing requirements in Subsection 4.3(b)(4) for this SMP;

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

c. The proposal is consistent with the general purposes of this Section and the public interest;

d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2E of this Appendix B;

e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and the result in no net loss of critical area functions and values; and

f. The proposal is consistent with other applicable regulation and standards

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~~a.~~
sequencing requirements in Subsection 4.3(B)(4) of this SMP;

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.E of this Appendix B;

~~c.~~ The proposal is consistent with the general purposes of this Section and the public interest;

f. The proposal is consistent with other applicable regulations and standards.

~~e.~~ The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and

The City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.

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~~3.~~ 3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) of this SMP shall be denied.

G. Unauthorized Critical Area Alterations and Enforcement

1. Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 (Enforcement, Violations, and Penalties) of this SMP and the following.

2. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

3. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 4 below. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the

a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

applicant or violator for revision and resubmittal.

4. Minimum Performance Standards for Restoration

a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standard shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

~~i.~~ i. The historic structural and functional values shall be restored, including water quality and habitat functions;

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~~ii.~~ ii. The historic soil types and configuration shall be replicated;

~~iii.~~ iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The

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historic functions and values should be replicated at the location of the alteration; and

~~iv.~~ iv. Information demonstrating compliance with the mitigation plan requirements in Subsection (E) of this Section shall be submitted to the SMP Administrator.

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

~~i.~~ i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

5. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

6. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section consistent with Section 7.4 (Enforcement, Violations, and Penalties) of this SMP. The civil penalty shall be assessed by the amount set forth in the Colfax fee schedule.

H. Signing.

The outer perimeter of identified critical areas shall be clearly marked throughout construction to ensure that no unauthorized intrusion will occur prior to the commencement of permitted activities. The SMP Administrator may require permanent signs with specific and appropriate wording be installed along the boundary of a critical area as a condition of any permit or approval.

I. Performance bonds.

When a performance bond or other surety instrument is attached as a condition of approval to a development permit or review, or any mitigation associated with the project, the applicant shall be required to post a monetary amount determined to be acceptable by the City in addition to the following requirements:

1. The amount shall be one hundred twenty-five percent of the estimated cost of uncompleted actions or the estimated cost of restoring the functions and values of the critical area that is at risk, whichever is greater.

2. Depletion or collection of bond funds shall not discharge the applicant's or violator's obligation to complete any required mitigation, maintenance, monitoring, or restoration.

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3. Public development proposals shall be exempt from this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

4. Failure to satisfy any provisions attached to a development permit under the terms of this chapter shall constitute a default and authorize the city to demand payment of any financial guarantees.

Any funds recovered pursuant to this Section shall be used to complete the required mitigation or other required actions.

## 3. 9.3 Wetlands.

A. Designation.

Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be determined by a qualified professional in accordance with the most current approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this section.

B. Wetland Rating.

Wetlands shall be rated according to the Washington Department of Ecology Wetland Rating System, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication No. 14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met.

Table B.3-1. Wetland Rating Descriptions.

| Wetland Category | Description |
|---|---|
| **Category I Wetland** | 1) alkali wetlands; 2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as wetlands of high conservation value; 3) bogs; 4) mature and old-growth forested wetlands over 1/4 acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points).<br>These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function. |
| **Category II Wetland** | 1) forested wetlands in the flood plains of rivers; 2) mature and old-growth forested wetlands over 1/4 acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between —19-21 points).<br>These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. |
| **Category III Wetland** | Category III wetlands are wetlands with a moderate level of functions (scores between —16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. |
| **Category IV Wetland** | Category IV wetlands have the lowest level of functions (scores less than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected. |

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C. Standard Wetland Buffer Widths.

1. Development near wetlands shall observe the following setbacks from the edge of the wetland. No development or activity shall occur within the required setbacks unless the applicant can demonstrate that the proposed use or activity will not degrade the functions and values of the wetland and other critical areas according to the evaluation criteria from subsection E of this section. In no case shall any buffer be less than seventy- five percent of the required width. The standard buffer widths in Table B.3-2 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the *Washington State Wetland Rating System for Eastern Washington*.

2. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-2 below.

3. The use of the standard buffer widths requires the implementation of the measures in Table B.3-3, where applicable, to minimize the impacts of the adjacent land uses.

4. If an applicant chooses not to apply the mitigation measures in Table B.3-3, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

5. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.

   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

~~5.~~

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.

   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

Table B.3-2 Wetland Buffer Width Requirements

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| **Category I: Based on total score** | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| **Category I: Forested** | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| **Category I: Bogs and Wetlands of High Conservation Value** | 190 ft | | | |
| **Category I: Alkali** | 150 ft | | | |
| **Category II: Based on total score** | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| **Category II: Vernal pool** | 150 ft | | | |
| **Category II: Forested** | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| **Category III (all)** | 60 ft | Add 30 ft | Add 60 ft | Add 140 ft |

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| | |
|---|---|
| **Category IV (all)** | 40 ft |

Table B.3-3 Required measures, where applicable, to minimize impacts to wetlands

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| **Lights** | Direct lights away from wetland |
| **Noise** | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| **Toxic runoff** | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| **Stormwater runoff** | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| **Change in water regime** | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| **Pets and human disturbance** | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| **Dust** | Use best management practices to control dust |

D. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available, at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species; or
2. The wetlands are used by species proposed or listed by the federal government or the state as endangered, threatened, rare, sensitive or being monitored as habitat for those species or have unusual nesting or resting sites; or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
4. The adjacent land has minimal vegetative cover or slopes greater than twenty-five percent.

E. Buffer averaging.

Buffer averaging to improve wetland protection may be permitted when all of the following are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.

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2. The buffer is increased adjacent to the higher-functioning area of habitat or more- sensitive portion of the wetland and decreased adjacent to the lower-functioning or less- sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

3. The total buffer area after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

F. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

G. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

H. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond (Subsection 2.I of this Appendix B).

I. Allowed Buffer Uses.

In addition to the uses listed in Subsection 1.2(D)(3), the following additional uses may be allowed within a wetland buffer in accordance with the review procedures of this section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:

a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

b. Wildlife-viewing structures.

~~a.~~ Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

~~b.~~ Wildlife-viewing structures.

~~1.~~ 2. Drilling for utilities/utili~~-~~ty corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt

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the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to

determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

~~2.~~ 3. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

4. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent of the buffer of Category III or IV wetlands only; provided, that:

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland; and

~~3.~~ c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland; and

c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

~~4.~~ 5. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

~~5.~~ 6. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

J. Compensatory Mitigation.

1. Compliance with State and Federal Standards. Projects that propose compensation for wetland acreage and/or functions losses are subject to State and/or Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Subsection 2.E of this Appendix B and Subsection 4.3(B)(6) of this SMP, as well as *Wetland Mitigation in Washington State--Part 2: Developing Mitigation Plans--Version 1* (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006, or as amended), and *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Eastern Washington) (Publication No. 10-06-07, November 2010).

2. Wetland Mitigation Ratios. Mitigation ratios shall be consistent with Table B.3-4 of this Section. Preferences for mitigation types and location should be consistent with *Wetland Mitigation in Washington State--Part 2: Developing Mitigation Plans--Version 1* (Ecology

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Publication No. 06-06-011b, Olympia, WA, March 2006, or as amended).

Table B.3-4 Wetland Mitigation Ratios

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| **Category I: Bog, Wetlands of High Conservation Value** | Not considered possible | Case-by-case | Case-by-case |
| **Category I: Forested** | 6:1 | 12:1 | 24:1 |
| **Category I: Based on functions** | 4:1 | 8:1 | 16:1 |
| **Category II** | 3:1 | 6:1 | 12:1 |
| **Category III** | 2:1 | 4:1 | 8:1 |
| **Category IV** | 1.5:1 | 3:1 | 6:1 |

3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-4, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "*Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report*" (Ecology Publication #11-06-015, August 2012, or as amended).

4. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

5. Wetland Mitigation Banks.

~~5.~~ a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

~~i.~~ i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,

~~ii.~~ ii. The SMP Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and

~~iii.~~ iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific ~~c.~~ wetland functions.

Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

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6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

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## 4.9.4 Critical aquifer recharge areas.

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A. Designation.

Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). Critical aquifer recharge areas have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. These areas include the following:

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1. Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the ten-year time of ground water travel or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.
2. Sole Source Aquifers. Sole source aquifers are areas designated by the U.S. Environmental Protection Agency pursuant to the federal Safe Drinking Water Act.
3. Susceptible Ground Water Management Areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.
4. Special Protection Areas. Defined pursuant to WAC 173-200-090.
5. Moderately or Highly Vulnerable or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable or highly susceptible to a degradation or depletion due to hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the state Department of Ecology guidelines or meeting the criteria established by the Department of Ecology.

B. General Regulations.

1. In areas within shoreline jurisdiction designated as high susceptibility for aquifer contamination, all uses shall be connected to the City's sewer system. No new uses on a septic system are permitted in high susceptibility areas of critical aquifer recharge.

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2. For shoreline uses or modifications locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.
3. Impervious surfaces shall be minimized within the critical aquifer recharge areas.
4. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction to ensure that potential contaminants do not reach the aquifer.
5. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the city.

C. Prohibited Uses.

The following shall be prohibited uses within a critical aquifer recharge area:

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1. Landfills, including hazardous waste, municipal solid waste, special waste, wood waste, inert waste, and demolition waste.

2. Underground injection wells of Classes I, III, and IV and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
3. Mining of metals and hard rock. Sand and gravel mining shall also be prohibited from critical aquifer recharge areas rated as highly susceptible or vulnerable.
4. Wood treatment facilities that allow any portion of the treatment process to occur over natural or manmade permeable surfaces.
5. Facilities that store, process, or dispose of radioactive substances.
6. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source.
7. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream.
8. Activities that are not connected to an available sanitary sewer system in areas associated with sole source aquifers.

**5.**

## 9.5 Fish and wildlife habitat conservation areas.

A. Designation.

All areas within Colfax's shoreline jurisdiction meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.
2. State priority habitats and areas associated with state priority species.
3. Habitats and species of local importance.
4. Naturally occurring ponds under twenty acres.
5. Waters of the state. Including lakes, rivers, ponds, streams, inland waters, and all other surface waters and watercourses within the state of Washington as classified in WAC 222- 16-030.
6. Lakes, ponds, rivers, and streams planted with game fish by a government or tribal entity.
7. State natural area preserves and natural resource conservation areas.
8. Land essential for preserving connections between habitat blocks and open spaces.

B. Mapping.

The following maps are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

1. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
2. Washington Department of Natural Resources, Official Water Type Reference Maps, as amended;

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3. Washington Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

4. City of Colfax habitat maps.

These maps are to be used as a guide for the city, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

C. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;

2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas~~:~~

:

a. The project area of the proposed activity;

b. All habitat conservation areas and recommended buffers within 300 feet of the project area; and

c. All shoreline areas, floodplains, and other critical areas, and related buffers within 300 feet of the project area.

a. The project area of the proposed activity;

~~b.~~ All habitat conservation areas and recommended buffers within 300 feet of the project area; and

c. All shoreline areas, floodplains, and other critical areas, and related buffers within 300 feet of the project area.

3. Habitat Management Plan. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. The habitat management plan shall be based on the most current, accurate, and complete scientific and technical information available and best management practices. It shall be designed to achieve specific habitat objectives and shall include, at a minimum:

a. A detailed description of vegetation on and adjacent to the project area;

b. Identification of any species of local important, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

c. A discussion of any federal, state or local special management recommendations, include Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

d. A detailed discussion of the potential impact on habitat by the project, including potential impact to water quality;

e. A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity; and

~~2.~~f. A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

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a. A detailed description of vegetation on and adjacent to the project area;

~~b.~~ Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

~~c.~~ A discussion of any federal, state or local special 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 the project area;

~~d.~~ A detailed discussion of the potential impact on habitat by the project, including potential impact to water quality;

~~e.~~ A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity; and

~~f.~~ A discussion of continuing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

D. General Requirements.

1. Alterations shall not degrade the functions and values of habitat. A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation

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proposed does not degrade the functions and values of the habitat. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

2. Non-indigenous species shall not be introduced. No plant, wildlife or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

a. Establishment of buffer zones;

b. Preservation of critically important vegetation;

c. Limitation of access to the habitat area, including fencing to deter unauthorized access;

d. Seasonal restrictions of construction activities;

e. Establishment of a duration and timetable for periodic review of mitigation activities; and

~~4.~~f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

a. Establishment of buffer zones;

b. Preservation of critically important vegetation;

c. Limitation of access to the habitat area, including fencing to deter unauthorized access;

d. Seasonal restriction of construction activities;

e. Establishment of a duration and timetable for periodic review of mitigation activities; and

~~f.~~ Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Buffers.

a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities, in or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to project the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.E(2) below.

b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

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~~6.~~c. Habitat Buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.E(2) below.

~~b.~~ Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

~~c.~~ Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the

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management recommendations issued by the Washington Department of Fish and Wildlife, only if:

i. It will not reduce habitat functions;

ii. It will provide additional natural resource protection, such as buffer enhancement;

iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

iv. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

7. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install lpermanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot orevery 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worked as follows or with alternative language approved by the SMP Administrator:

~~7.~~

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

~~b.~~Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the SMP Administrator:

*"Habitat Conservation Area Do Not Disturb*
*Contact City of Colfax Regarding Uses and Restrictions"*

c. Fencing.

c. Fencing.

i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the

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habitat conservation area.

~~ii.~~ ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

~~iii.~~ iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

8. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each now lot:

~~8.~~

i. Is located outside of the habitat conservation area and its buffer; and

ii. Meets the minimum lot size requirements of Colfax's zoning code (Title 17).

c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

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~~c.~~ Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

E. Development Standards for Specific Species or Habitats.

In addition to the general requirements of Subsection D, the following standards shall be required for specific habitat conservation areas:

1. Endangered, threatened, and sensitive species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

b. Approval for alteration of land adjacent to a habitat conservation area or its buffer where endangered, threatened, and sensitive species have a primary association shall not occur prior to consultation with the state Department of Fish and Wildlife and the appropriate federal agency.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules, WAC 232-12-292, and any activity proposed within eight hundred feet, or within two thousand six hundred forty feet and in a shoreline foraging area, of a verified nest territory or communal roost shall include a habitat management plan developed by a qualified professional. The habitat management plan shall be approved by the U.S. Fish and Wildlife Service prior to any final permit approvals.

~~1.~~

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

b. Approval for alteration of land adjacent to a habitat conservation area or its buffer where endangered, threatened, and sensitive species have a primary association shall not occur prior to consultation with the state Department of Fish and Wildlife and the appropriate federal agency.

~~c.~~ Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules, WAC 232-12-292, and any activity proposed within eight hundred feet, or within two thousand six hundred forty feet and in a shoreline foraging area, of a verified nest territory or communal roost shall include a habitat management plan developed by a qualified professional. The habitat management plan shall be approved by the U.S. Fish and Wildlife Service prior to any final permit approvals.

2. Streams.

a. Establishment of buffers and setbacks. Buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps and springs. A building setback shall be established adjacent to those rivers or perennial streams that are functionally separated from their associated uplands by an impervious concrete lining.

b. Activities Shall Not Degrade the Functions and Value of Buffers and Setbacks.

~~2.~~

a. Establishment of buffers and setbacks. Buffers shall be established for habitats that ~~j.~~

include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps and springs. A building setback shall be established adjacent to those rivers or perennial streams that are functionally separated from their associated uplands by an impervious concrete lining.

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b. Activities Shall Not Degrade the Functions and Values of Buffers and Setbacks.

~~i.~~ Unless otherwise allowed in this Chapter, all structures and activities shall be located outside of the buffer. A proposed activity may only be permitted in a buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the buffer and other critical areas.

ii. Unless otherwise allowed in this Chapter, all buildings shall be located outside of the building setback. Other improvements may be allowed in the building setback so long as mitigation is provided for any adverse impacts.

c. Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:

~~ii.~~ c. Classifications. Streams are classified using the Permanent Water Typing System described in WAC 222-160-030, and as follows:

i. Type S- Type S waters are shorelines of the state

ii. Type F- Type F waters are perennial or seasonal, fish-bearing waters

iii. Type Np- Type Np waters are nonfish-bearing perennial waters

iv. Type Ns- Type Ns waters are nonfish-bearing seasonal waters

d. Standard Buffers or Building Setbacks.

~~iv.~~ d. Standard Buffers or Building Setbacks.

i. Recommended buffer or building setback widths are shown in Table B.5-1. A stream shall have the required buffer or setback width, unless a greater width is required pursuant to Subsection 5.E(3)(e), or a lesser width is allowed pursuant to Subsection 5.E(3)(f) of this SMP.

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ii. Spring Flat Creek, a tributary of the South Fork Palouse River in a concrete-lined channel, shall have a 15-foot building setback from the ordinary high water mark or the top of the concrete-lined channel wall within shoreline jurisdiction, unless a greater width is required pursuant to Subsection 16.55.705(D)(3)(e), or a lesser width is allowed pursuant to Subsection 16.55.705(D)(3)(f).

iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer or building setback that applies in the landward designation is that buffer which is specified for that designation and which is measured from the ordinary high water mark.

Table B.5-1 Standard Shoreline Buffers or Building Setbacks

| Environment Designation | Shoreline Waters[1] (Type S) |
|---|---|
| **All Designations** | For water-dependent developments, no buffer or setback. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| **Urban Conservancy** | South Fork Palouse River – a buffer the smaller of:<br>• 75 feet<br>• The waterward edge of an improved public road<br>North Fork and Mainstem Palouse River – a buffer the smaller of:<br>• 100 feet<br>• The waterward edge of an improved public road |
| **Shoreline Residential** | A buffer the smaller of:<br>• The landward edge of the toe of a levee<br>• 75 feet |
| **Shoreline Parks** | A buffer the smaller of:<br>• The landward edge of the toe of a levee<br>• 75 feet |
| **High Intensity** | South Fork Palouse River: a buffer of 50 feet<br>North Fork and Mainstem Palouse River – a buffer the smaller of:<br>• The landward edge of the toe of a levee<br>• 60 feet |
| **Flume** | No buffer required; building setback of 15 feet from the top of the concrete-lined channel wall. Fences, parking, yards and other improvements are allowed in the setback if authorized by other agencies and regulations. |

[1] Shoreline (Type S) stream buffers or setbacks are based on existing conditions in each environment designation

e. Increased Buffer or Building Setback Width. The buffer or setback width shall be increased, as follows:

e. Increased Buffer or Building Setback Width. The buffer or setback width shall be increased, as follows:

i. When the SMP Administrator determines that the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream; or

ii. When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

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f. Buffer Width Averaging. The SMP Administrator may allow the buffer width of a stream to be reduced in accordance with a critical area report only if:

i. The width reduction will not reduce stream habitat functions, including those of non- fish habitat;

ii. The width reduction will not degrade the habitat;

iii. The proposal will provide additional habitat protection;

iv. The total buffer area of each stream on the development proposal site is not decreased;

v. The buffer width is not reduced by more than 25% in any one location;

vi. The buffer width reduction will not be located within another critical area or associated buffer; and

vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

The width of the building setback may not be averaged, but may be reduced through a Shoreline Variance.

g. Buffer Mitigation. Mitigation of adverse impacts to buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

h. Alternative Mitigation for Stream Buffers. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub drainage basin as a result of alternative mitigation measures.

i. Uses and modifications allowed in stream buffers. The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.

~~i.~~ j. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced buffer unless at least one of the following is met:

a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility, facilities that support aquaculture);

b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses;

c) The accessory use, development or activity can be located upland of the water-dependent use; or

d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

ii. Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures are allowed in stream buffers provided the applicant can demonstrate that the design applies

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mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and Appendix B (Shoreline Critical Areas Policies and Regulations) of this SMP. The City may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

iii. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

iv. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the stream buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this Chapter. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

6.

## 9.6 Frequently flooded areas.

A. Designation.

This Section shall apply to all frequently flooded areas in shoreline jurisdiction. Frequently flooded areas shall include the following:

1. Areas of Special Flood Hazard. Areas identified by the Federal Insurance Administration Flood Insurance Study for the City of Colfax and accompanying maps, including Federal Emergency Management Agency flood insurance rate maps.

2. Areas Identified by the SMP Administrator. Areas of special flood hazard identified by the SMP Administrator based on review of base flood elevation and floodway data available from federal, state, local agency, or other valid sources when base flood elevation data has not been provided by the Federal Insurance Administration.

B. Standards.

Applicants for development within frequently flooded areas shall comply with provisions of the City's flood damage prevention ordinance (Chapter 15.44 CMC).

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## 7. 9.7 Geologically hazardous areas.

According to the best information available, the City of Colfax is not aware of any seismic or mine hazard areas within the City boundaries; however, this does not preclude landowners from investigation and due diligence in these regards. If geologically hazardous areas are determined to be present in shoreline jurisdiction, the following regulations shall apply.

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A. Buffers.

1. Standard buffer. A minimum twenty-five-foot buffer shall be established from the top, toe or sides of an identified geological hazard, including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (forty percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in a geotechnical report prepared by a qualified geotechnical engineer.

2. Reduced Buffer. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

   a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.

   b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

   ~~2.~~ c. The proposal mitigates all impacts identified in the geotechnical report.

   a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of ~~water.~~

   b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

   c. ~~The proposal mitigates all impacts identified in the geotechnical report.~~

B. Activities Allowed in Seismic and Mine Hazard Areas.

1. Construction of new buildings with less than two thousand five hundred square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly;

2. Additions to existing single-story residences that are two hundred fifty square feet or less; and

3. Installation of fences.

C. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

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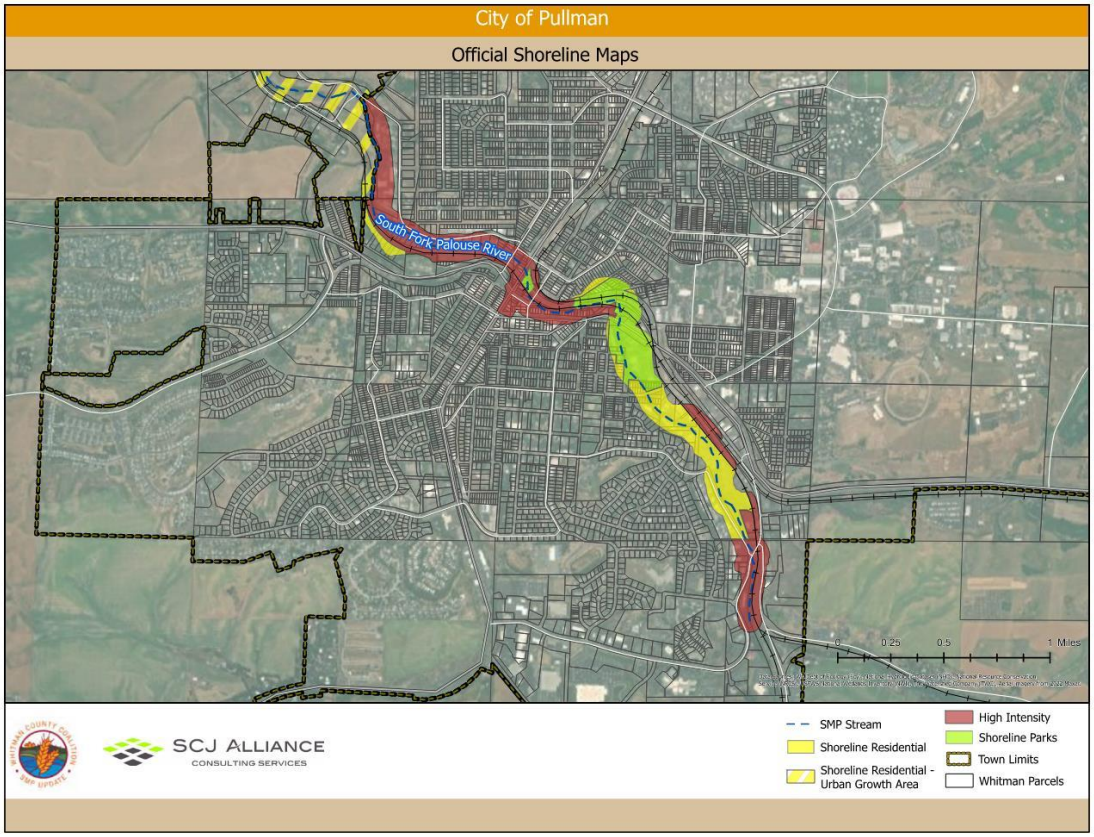
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# ~~Appendix C~~
# APPENDIX C -S~~S~~horeline Environment Designation Map

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# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Malissa Paulsen, Rachel Granrath<br>SCJ Alliance | Colfax | 01/09/2023 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended **floating on-water residences** provisions | Pg. 38, Ch. 5, Sec. 8, B.5. "New floating homes shall be prohibited" | No Action Needed |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | Pg. 35, Ch. 5, Sec. 8, B.1. contains only mention of fish passage.<br>Pg. 52, Ch 7, Sec 6, C. contains reference to RCW 90.58.147 | Could use inclusion of example language for clarity.<br>**Added**<br>**SMP 7.6, C, 2.** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | Pg. 31, Ch. 5, Sec. 3, B.1. "no other boating facilities (e.g., docks) are allowed in the City of Colfax" | No Action Needed |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $**8,504**. | Pg. A-20, Definitions: Substantial Development states threshold at $6,416 | Needs updated to include newest threshold.<br>**Updated to 8,504** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Pg. A-5, Definitions: Development, does not include any mention of dismantling or removing structures. | Could use inclusion of clarifying language.<br>**Added language to definition, development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | Pg. 52, Ch.7,Sec.6 contains reference to RCW 90.58.355 but does not specify exceptions. | Inclusion of DOE example language could help clarify updates.<br>**Added 7.6, C, 3.** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | Pg. 51 Ch.7,Sec.5, E contains reference to 90.58.140 and "date of filing" Pg. 7.3 E. "Date of receipt" not found in SMP. WAC 173-27-130 referenced in pg. 56, 7.6, I. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | Forest Practices not covered in SMP. | Added Red-line section to Table 4.10-1 (Pg. 26) to clarify Forest Practice Uses in Shoreline Jurisdiction |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | Pg. 52 Ch. 7, Sec 6, C does not include language exempting lands within federal jurisdiction | Update needed to include DOE example language. **Added 1.5, C, 6** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | A-13, Nonconforming Lots<br>A-13, Nonconforming Use<br>Pg. 55-56, Ch 7, Sec 7, B - E | Update needed to both sections to separate these to align with DOE examples.<br>**Separated definitions on Pg. A-13**<br>**Separated sections under 7.7** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Pg. 57, Ch. 7. Sec. 7, D, 6. Similar language found | Add DOE example language. **Added SMP 7.6, C, 4** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Pg. B-8, Sec 3, Wetlands. Language Included. | No Action Needed |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | 90.58.140 referenced under SMP 7.6, C, 1. | No Action Required unless further clarification is wanted such as DOE example language. |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | No reference to SMP appeal process. (Not permit appeal) | No Action Needed |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | B-8, A. Wetlands, Designation.<br>A-23, Wetland Edge<br>Both state accordance with federal wetland delineation manual. | No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No Saltwater Shorelines | No Action Needed |
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | A-10, Houseboat or floating home. Language Included. | No Action Needed |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | Pg. 59, Ch 7, Sec 7, E, 1. Language Included. | No Action Needed |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | Pg. 60, Ch 7, Sec 9, B. Language Included. | No Action Needed |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | Pg. 45, Ch 6, Sec 5, B, 6. Language Included. | No Action Needed |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | Pg. B-13, Sec 3, J, 5, C. Language Included. | No Action Needed |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | No language found | No Action Needed. |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | Pg. A-9, Definitions: Floodway Combined option 1 and 2 of DOE language | No Action Needed. |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | Pg. 7, Ch 3, Sec 2, A, 2. Lists Shorelines of Statewide Significance in city.<br>Pg. 13, Ch 3, Sec 3, H. Maps at City Hall | No Action Needed |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with

coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☐ | Yes | CAO has been updated since SMP update, but does not trigger amendment due to inclusion of updates in current SMP draft. |
| | ☒ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☐ | Yes | |
| | ☒ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☐ | Yes | |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
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## Changes to local circumstance, new information, or improved data

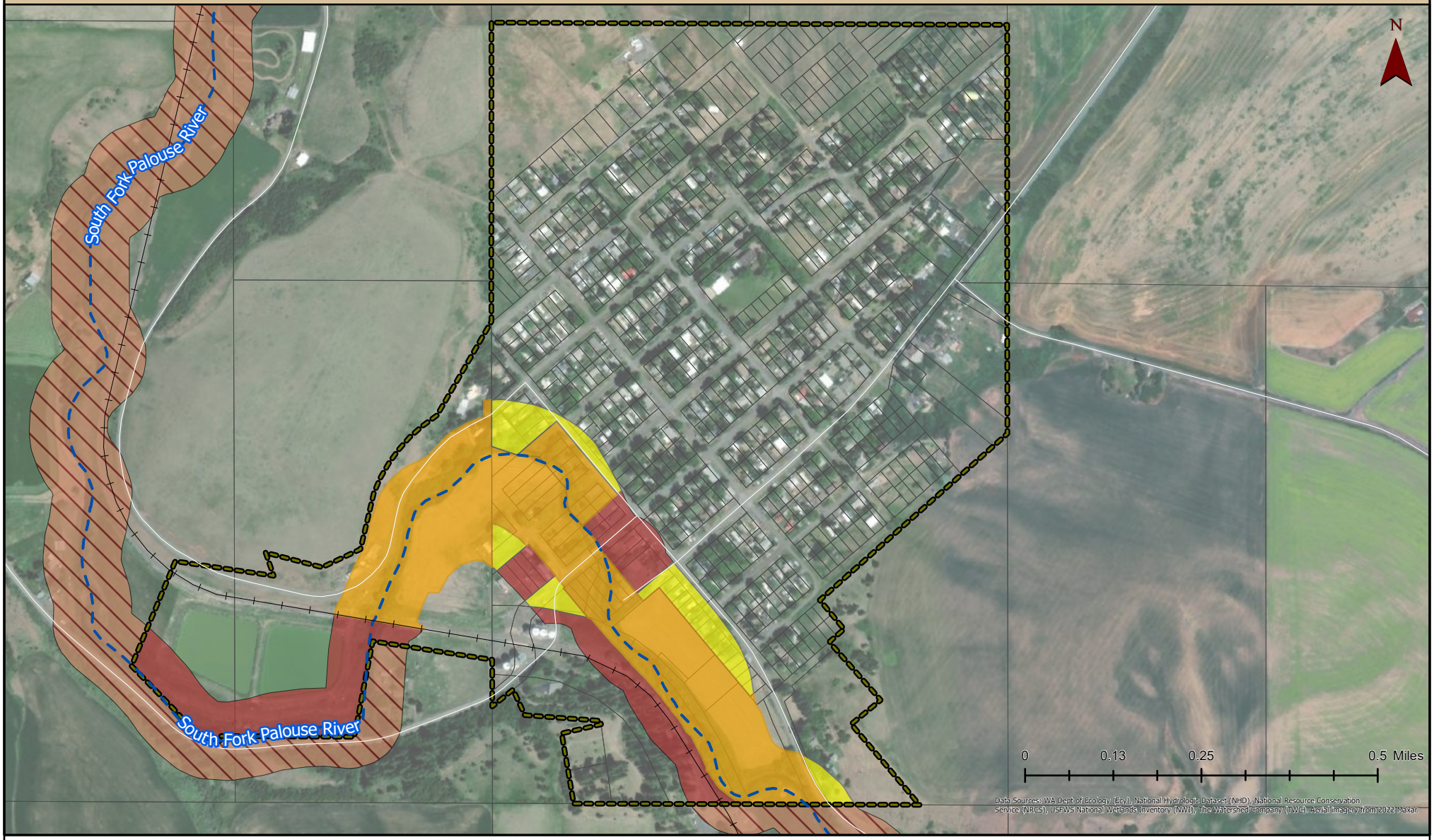
| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
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# Town of Albion

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Rural Conservancy
- Urban Conservancy
- High Intensity
- Town Limits
- Whitman Parcels



# TOWN OF ALBION
# SHORELINE MASTER PLAN

**Adopted Ord. XX**
**Approved by Ecology XX**
**Effective XX**
**Periodic Update Working Draft: January 11, 2023**

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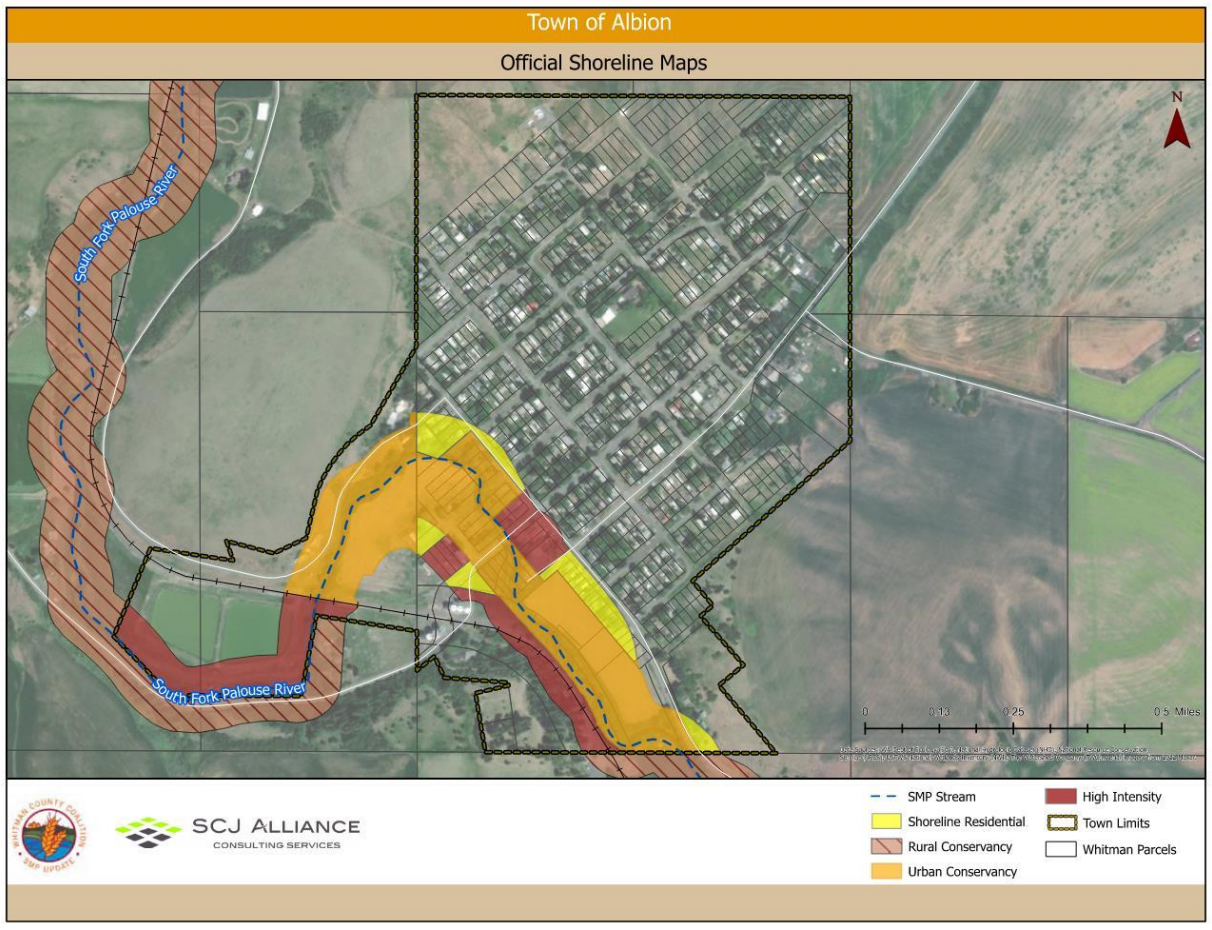
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# Reader's Guide

## A. The Shoreline Management Act and the Town of Albion's SMP




Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses. The Town developed and adopted its first Shoreline Master Program (SMP) in 1974 as part of a regional effort with Whitman County. That SMP was developed almost 40 years ago and since then there has been some change along the Town's shoreline. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules. Therefore, in accordance with the SMA, the Town has prepared this SMP to guide and manage its shoreline.

The Town of Albion SMP contains goals, policies, regulations, and a shoreline environment designation map that guide the development of shorelines in accordance with the SMA (Revised Code of Washington [RCW] 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (Washington Administrative Code [WAC] 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The goals and policies of Albion's SMP, approved under chapter 90.58 RCW, create a framework for the regulations of the SMP and are found in the SMP Policy Chapter. It provides guidelines for future decision making and future development of lands within the Town's SMP jurisdiction boundaries.

All regulatory elements of this SMP, including, but not limited to, definitions and use regulations, are a part of the Town's development regulations.

### B. Shoreline Jurisdiction

In accordance with state laws and rules, the jurisdiction of the Town of Albion's SMP encompasses the South Fork Palouse River, land within 200 feet of the ordinary high water mark (OHWM), its floodways, contiguous 100-year floodplain extending up to 200 feet inland of the floodway, and associated wetlands.

### C. Applicability and Exemptions



The SMP applies to all proposed uses and development occurring within shoreline jurisdiction. This SMP does not apply to certain activities that do not alter structures or properties, such as interior building changes or routine gardening. It also does not apply to legally established uses already on the land such as existing agriculture, existing residences, and other existing uses, structures, and activities. See Section 1.5 for a complete description of SMP applicability.

There are also activities that are exempt from the Shoreline Substantial Development Permit system. These activities are subject to the standards of the SMP but are not required to submit fees and other materials associated with Shoreline Substantial Development Permits. Common exemptions include, but are not limited to:

- Normal maintenance or repair of existing structures or developments
- Bulkheads common to single-family residences
- Emergency construction necessary to protect property from damage
- Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures
- Construction of a single-family residence

Exemptions are fully described and listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, as amended. See Section 7.6 for additional information on exemptions.

### D. How to Read and Apply this SMP

When reading the SMP, it is useful to consider the definitions of the following terms that are

based on definitions in the SMP Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this SMP and the Act.

In general, this SMP uses the word “should” in goals, objectives, and policies, and “shall” in the regulations. Additional definitions are located in Appendix B.

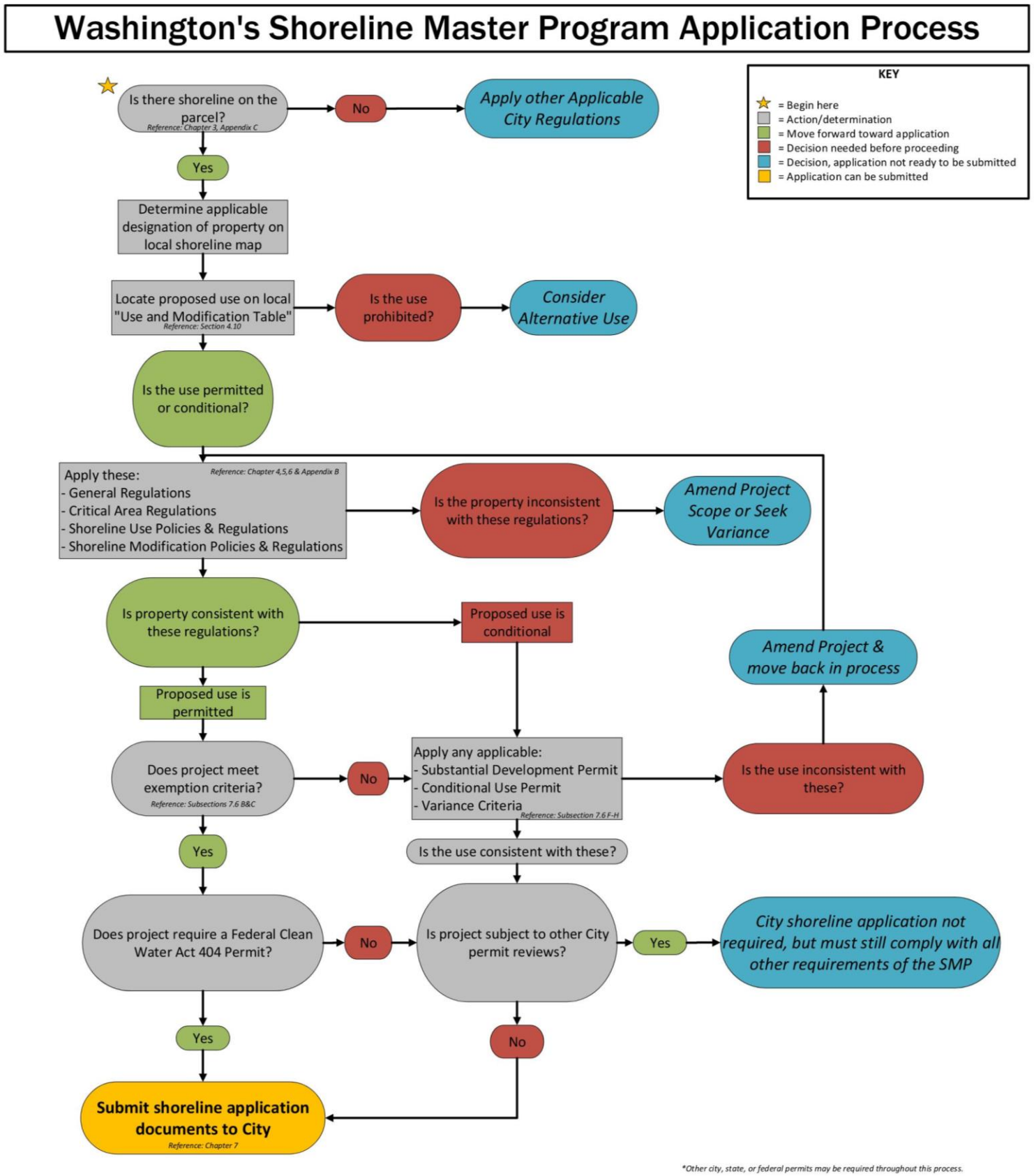
For informational purposes, the flow chart below (Figure RG-1) illustrates how an applicant could navigate the regulations to determine if and how they apply to a particular project and property. In addition to approval from the Town of Albion, any shoreline development or construction project may also require a permit or approval from the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and/or the Washington Department of Natural Resources, among others (please see “Coordination” section below).

## E. Document Organization

The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other Town planning documents such as the Town of Albion Comprehensive Plan and the Albion Municipal Code (AMC). The organization of the SMP and the purpose for each Chapter is explained below.

- Chapter 1. Introduction: provides background, purpose, and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.
- Chapter 6. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.
- Chapter 7. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.
- Appendix A. Definitions: provides definitions for terms used throughout the SMP.
- Appendix B. Shoreline Critical Area Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.
- Appendix C. Shoreline Environment Designations Map. Contains the Official Shoreline Map illustrating the environment designations for shoreline jurisdiction in the Town of Albion.

Figure RG-1. Shoreline Application Process Flow Chart.



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# 1. Introduction

## 1.1 TITLE

This document shall be known and may be cited as the Town of Albion Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 1.2 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 1.3 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the state's shorelines...."
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

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

## 1.4 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities.

The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP that are approved under RCW 90.58 shall be considered an element of the Town's comprehensive

planning, and all regulatory elements of this SMP shall be considered a part of the Town's development regulations.

After the Town's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the Town and approved by Ecology.

## 1.5 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection C, all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Appendix A (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.

2. Interior building improvements that do not change the use or occupancy;

3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;

4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and

5. As of the effective date of the SMP, legal pre-existing residential uses and structures where no change or new activity is proposed.

~~5.~~6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 7.6(B) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply Town-wide to all nonfederal uses, activities, and development.

F. This SMP applies to lands subject to nonfederal ownership, lease, or easement, even though such lands may fall within the external boundaries of a federal ownership.

G. This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 have been meet.

H. A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date

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of vesting; provided, in the event an applicant substantially changes the proposal after a determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

## 1.6 LIBERAL CONSTRUCTION

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

## 1.7 SEVERABILITY

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

## 1.8 EFFECTIVE DATE

The SMP is hereby adopted on the 10th day of November, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

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# ~~2.~~ 2. Shoreline Vision and Goals

## 2.1 SHORELINE VISION

2.1 It shall be the ultimate goal of the Town of Albion SMP to provide plans, policies, and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the Town of Albion regarding the balanced use of the Town's shoreline.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

## 2.2 SHORELINE GOALS

2.2

A. Shoreline Use

1. Promote the best use of the Town of Albion shorelines through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.

2. Recognize the non-navigability of the Palouse River in Albion and allow for appropriate development along the shoreline.

3. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the Town as well as the shoreline environments, habitat, and ecological systems.

4. Consider agriculture as a water-related use and key economic factor in the Town of Albion. Other shoreline uses should not compromise agricultural production on designated agricultural lands.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the Town of Albion's shorelines. Shoreline economic growth and prosperity should take into account the existing rural character of the Town.

2. Permit those commercial, industrial, recreational, and other developments that require a location along the shoreline and which may contribute to the economic well-being of the Town of Albion while achieving no net loss of ecological function.

3. Promote new water-dependent, water-related, and water-enjoyment economic development, with preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the Town of Albion's shorelines.

2. Ensure an adequate supply of safe public access to the Town of Albion's shoreline.

3. Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while



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maintaining no net loss of ecological function.

D. Recreation

1. Protect and expand opportunities for recreation in the Town of Albion's shoreline areas, including but not limited to parks and other recreational areas.

2. Encourage and maximize water-oriented recreational opportunities along the shoreline.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the Town of Albion's shorelines.

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

3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.

2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

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

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I. Flood Hazard Management

Protect the Town of Albion from losses and damage created by flooding along the shoreline.

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# 3. Shoreline Jurisdiction and Environment Designations

## 3.1 3.1 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres.

2. Shorelands, as adopted by the Town of Albion and indicated on the Official Shoreline Map available for review at Town Hall, are defined as:

   *"those lands extending landward for 200 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…." (RCW 90.58.030)*

   The Town of Albion will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Map available for review in Town Hall. The purpose of the Official Shoreline Map is to identify Environment Designations (Chapter 3 below). The map only approximately identifies or depicts the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

~~3.~~4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

   *"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.*

   *In the implementation of this policy, the public's opportunity to enjoy the*



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*physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the [Department [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

   a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
   b. Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.
   c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
   d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
   e. Limit nonwater-oriented uses to those locations where the above-described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

## 3.2 SHORELINE ENVIRONMENT DESIGNATIONS

A. Urban Conservancy

1. Purpose: The Urban Conservancy environment is intended to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they

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exist, while allowing a variety of compatible uses.

2. Designation Criteria: Specific criteria for designation of the Urban Conservancy environment include areas or properties that:

   a. Lie in the Town limits;
   b. Are planned for development that is compatible with the principals of maintaining or restoring the ecological functions of the area;
   c. Are suitable for water-enjoyment uses;
   d. Are open space or floodplains; or
   e. Are areas that retain important ecological functions which should not be more intensively developed.

3. Management Policies:

   a. Allowed uses for the Urban Conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
   b. Water-oriented uses should be given priority over nonwater-oriented uses.
   c. Development in the Urban Conservancy environment should only be allowed if it would not result in a net loss of shoreline ecological functions, and if significant ecological impacts can be mitigated.
   d. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

B. Shoreline Residential

1. Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

3. Management Policies:

   a. Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
   b. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
   c. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
   d. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

C. High Intensity

1. Purpose: The purpose of the High Intensity environment is to provide for high-intensity commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria: Assign a High Intensity environment designation to shoreline areas if they currently support high-intensity uses related to commerce, transportation, or

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navigation; or are suitable and planned for high-intensity uses.

3. Management Policies

a. Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

b. When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

c. New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d. Where feasible, visual, and physical public access should be required as part of development in the High Intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

D. Aquatic

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

2. Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management Policies:

a. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

b. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

d. All developments and uses should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

e. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

E. Environment Designation Interpretation

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1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Map shall prevail consistent with the following rules:
   a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.
   b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.
   c. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.
   d. Boundaries indicated as approximately parallel to or extensions of features indicated in (a), (b), or (c) above shall be so construed.
2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Chapter 7 (Administration and Permitting), and the Town's appeal procedures in Article X of the Zoning Code. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g., the SMP hearing and adoption record does not indicate another designation was intended), an SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).
3. All shoreline areas waterward of the OHWM shall be designated Aquatic.
4. Upland environment designations shall apply to shorelands.
5. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature.

F. Official Shoreline Map and Unmapped or Undesignated Shorelines

1. The Official Shoreline Map at the time of SMP adoption, which illustrates the approximate shoreline jurisdiction and environment designations in the Town, is available for review in Town Hall. The Official Shoreline Map shall include the following language: "We hereby certify that this map constitutes the Official Shoreline Map as approved by Resolution 15-10 of the Town Council and signed by the Mayor dated this 10th day of November, 2015." The Official Shoreline Map may be updated administratively or through an SMP amendment as indicated in Subsections (F)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Map when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.
2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation. Correction of these minor mapping inaccuracies may be made and

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incorporated into the Official Shoreline Map without an SMP amendment.

3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

5. In addition, any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associated wetlands, for example, may be developed at the site-specific scale and site conditions may change over time. Revisions to the Official Shoreline Maps may be made as outlined in this Subsection (F)(5) without an SMP amendment.



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# ~~4.~~ 4. General Policies and Regulations

## 4.1 INTRODUCTION

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

## 4.2 4.2 SHORELINE USE AND DEVELOPMENT

4.2

A. Policies

1. Give preference along the shoreline to water-oriented uses, while recognizing the non-navigability of Albion's portion of the Palouse.
2. Protect current agricultural uses on agricultural land and provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.
3. Control pollution and prevent damage to the natural environment.
4. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.
5. Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.
6. The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.
7. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

B. Regulations

1. All uses in the shoreline shall comply with the Town's development code and this Program.
2. The shoreline use and modification table (Table 4.10-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.
3. All structures in the shoreline shall be designed and constructed consistent with the underlying zoning and shall not exceed 35 feet above average grade level, consistent with RCW 90.58.



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4. To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).

5. In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

## 4.3 4.3 ENVIRONMENTAL PROTECTION

A. Policies

1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the Town's environmental resources (air, ground and surface waters, and indigenous biology).

3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of Town residents.

B. Regulations

1. Ecological Functions. Uses and developments on the Town's shoreline must be designed, located, sized, constructed, and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

2. Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of Appendix B (Shoreline Critical Areas Policies and Regulations).

3. Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 4.3(B)(4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 4.3(B)(4):

   a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or

   b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

   c. When specifically required by regulations contained in this SMP.



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4. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 4.3(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

   a. Avoid the impact altogether by not taking a certain action or parts of an action;
   b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
   c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
   d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
   e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
   f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

   a. Removal of native plant communities in shoreline jurisdiction,
   b. Removal of native or non-native trees that overhang the water,
   c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,
   d. Removal or alteration of priority habitats or habitat for priority species,
   e. Construction of new or expanded in- and over-water structures,
   f. Construction of new or expanded shoreline stabilizations,
   g. New discharges of water into shoreline waters that may introduce pollutants,
   h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or
   i. Changes in grading or fill that reduce floodplain capacity.

6. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the Town of Albion, but may be voluntarily performed by an applicant. In addition to any requirements found in Appendix B (Shoreline Critical Areas Policies and Regulations), a mitigation plan must include:

   a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
   b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;



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c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;

f. A contingency plan if mitigation fails to meet established success criteria; and

g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

7. Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include in-lieu-fee, advance mitigation, and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

## 4.4 4.4 SHORELINE VEGETATION CONSERVATION

A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas within shoreline jurisdiction must be managed consistent with Appendix B (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Section 6 of Appendix B (Fish and Wildlife Habitat Conservation Areas).

3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 4.3 (Environmental Protection) and



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any other regulations specific to vegetation management contained in this SMP and Albion Municipal Code.

4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Albion Municipal Code. Mitigation sequencing per Subsection 4.3(B)(4) (Environmental Protection) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The Town may approve modifications or require minor site plan alterations to achieve maximum tree retention.

5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

   a. Removal of native trees, shrubs or groundcovers;
   b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or
   c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

   Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Palouse Conservation District, and must contain information required in Subsection 4.3(B)(6). All mitigation plantings shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

7. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

8. Invasive Species Control.

   a. Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.
   b. Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.
      i. Coordination with the applicable local conservation district is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is permitted.
      ii. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.



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iii. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

~~c.~~ Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-



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dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

## 4.5 4.5 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

A. Policies

1. Maintain and improve the water quality and quantity of the Town's shorelines, and preserve surface and groundwater for the beneficial use of the Town's citizens and wildlife over the long term.

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

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

B. Regulations

1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions. All new uses and developments shall comply with the Environmental Protection regulations in Section 4.3(B).

2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

3. Requirements for new development.

   a. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the Town's stormwater management requirements and the use of best management practices. In the absence of Town standards for control of quality and quantity of stormwater runoff, applicants should consult Ecology's Stormwater Management Manual for Eastern Washington for guidance.

   b. Deviations from any Town standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.



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6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

## 4.6 4.6 FLOOD HAZARD MANAGEMENT

A. Policies

1. Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

2. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed, and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

3. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

1. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 4.3(Environmental Protection) and Section 6 (Frequently Flooded Areas) of Appendix B, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review in Town Hall. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

3. The following uses and activities may be authorized within the CMZ or floodway:

   a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

   b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

   c. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

   d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation



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structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs[1]. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

~~d.~~e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

~~e.~~f. Water-dependent installations which by their very nature must be in the floodway.

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

~~g.~~h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

4. New flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

~~[1]For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]~~

6. New public and private structural flood hazard reduction measures:

   a. Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

      i. That they are necessary to protect existing development;

      ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

      iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

~~[1]For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]~~

      iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

      v. That the proposal has been coordinated through the appropriate diking district



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where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]

~~vii.~~

b. Shall be consistent with an approved comprehensive flood hazard management plan.

~~b.~~

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c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing Town-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 6.3 (Dredging and Dredge Material Disposal), and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## 4.7 4.7 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

A. Policies

1. Continue to regulate archaeological, historic, and cultural resources.

2. Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

B. Regulations

1. Permits issues in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:

a. The project will be exempt if an of the following are met:

i. Prior negative archaeological survey is on file

ii. No ground disturbance will occur

iii. The project is in 100 percent culturally-sterile fill

b. If no known cultural resources are present, the DAHP Predictive Model shall be ~~applied~~applied, and the survey recommendations shall be followed according to the associated risk identified.

~~b.~~c. If cultural resources are present and ground-disturbance is proposed, then a site inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes prior to initiating disturbance. The resource shall be avoided or



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mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant.

2. In accordance with state law:

a. In the event that human remains, burials, ~~funery~~funerary items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.

b. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53 shall be adhered to.

## 4.8 4.8 PUBLIC ACCESS

A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while recognizing that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.

2. Consistent with the overall best interest of the state and the people of the Town of Albion, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views, by regulating the design, construction, and operation of permitted uses in the Town's shoreline jurisdiction.

3. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals identified in any Town parks, recreation, and/or open space plans.

B. Regulations

1. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.

2. In compliance with RCW 35.76.035, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished except in compliance with the provisions of RCW 35.76.035.

3. Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

4. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:

a. The development is proposed or funded by a public entity or is on public lands;

b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;

c. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity, or development under the Act, such as a nonwater-oriented commercial or industrial use; or



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d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.

5. An applicant shall not be required to provide public access where the Town determines that one or more of the following conditions apply:

e. Proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings or subdivision of four or fewer lots;

f. The proposed use, activity or development only involves agricultural activities;

g. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety, or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

h. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

i. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

j. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

k. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

6. Public access locations shall be clearly marked and available to the public.

7. The Town may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

8. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

9. The Town shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

10. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

## 4.9 4.9 UNCLASSIFIED USES

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 7.6(G) (Shoreline Conditional Use Permit) of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

## 4.10 4.10 SHORELINE USE AND MODIFICATION TABLE

All uses and developments in the Town's shoreline jurisdiction shall comply with the use regulations and development standards contained in the following tables. Refer to the text section of this Program for all applicable provisions related to specific uses and development standards.



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## Table 4.10-1 Shoreline Use and Modification Table

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| **Agriculture** | | | | |
| Existing Agricultural Activities | Not regulated under this SMP | | | |
| New Agricultural Activities | P | P | P | N/A |
| Agricultural Related Activities | C | C | P | N/A |
| **Aquaculture** | | | | |
| Commercial | X | X | X | X |
| Non-commercial | P | X | P | P |
| **Boating Facilities** | | | | |
| Boating Facilities | X | X | X | X |
| **Breakwaters, Jetties, Weirs and Groins** | | | | |
| To protect or restore ecological functions | P | P | P | P |
| All other purposes | C | C | C | C |
| **Commercial Development** | | | | |
| Water-oriented | P | P | P | X |
| Nonwater-oriented | | | | |
| General | X[2] | C | P | X[2] |
| Separated from Shoreline[1] | P | C | P | N/A |
| **Dredging and Dredge Material Disposal** | | | | |
| Dredging | N/A | N/A | N/A | P |
| Dredge Material Disposal | C | X | X | X |
| **Fill and Excavation** | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | N/A |
| **Flood Hazard Management** | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P |
| New Facilities | C | C | P | See adjacent upland designation |
| **Forest Practices** | | | | |
| Forest Practices | X | X | X | N/A |
| **Industrial Development** | | | | |
| Water-oriented | X | X | P | C |
| Nonwater-oriented | | | | |



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| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| General | X | X | C[2] | X[2] |
| Separated from Shoreline[1] | X | X | P | N/A |
| **In-Stream Structures** | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; or support agriculture. | P | P | P | P |
| Other | C | C | P | See adjacent upland designation |
| **Mining** | | | | |
| Mining | X | X | X | X |
| **Recreational Development** | | | | |
| Water-oriented | P | P | P | P |
| Nonwater-oriented | | | | |
| General | C | C | C | X |
| Sites separated from shoreline[1] | P | P | P | N/A |
| **Redevelopment, Repair, and Maintenance** | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P |
| **Residential Development** | | | | |
| Single- and Two-Family Dwelling | P | P | P | X |
| Multi-Family Dwelling | X | P | P | X |
| **Shoreline Restoration and Enhancement** | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P |
| **Shoreline Stabilization** | | | | |
| New Stabilization | P | P | P | P |
| **Transportation and Parking** | | | | |
| Expansion of Existing Transportation and Parking Facilities | P | P | P | P |
| New Access Roads Serving Permitted Uses | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | C | C | P | N/A |
| New Bridges | C | C | P | C |
| New Railways | C | C | P | C |
| New Airstrips | X | X | X | N/A |
| New Trails | P | P | P | N/A |



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| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | |
| New Parking to Support Authorized Use[3] | P | P | P | N/A |
| **Utilities** | | | | |
| Expansion of Existing Utilities | P | P | P | P |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | C | C | P | C |
| New Power Generating Facilities | C | C | P | C |
| New Utility Transmission Lines | P | P | P | C |
| New Utility Services, General | P | P | P | C |
| New Wastewater Treatment Facility | C | X | P | See adjacent upland designation |

[1]"Sites separated from shoreline" refers to those sites that are physically separated from the shoreline by another property or a public right of way.
[2]Nonwater-oriented commercial uses are allowed as part of a mixed-use development that includes a water-dependent use.
[3] Parking as a primary use prohibited in all designations per WAC 173-26-241(3)(k)).

## 4.114.11 SHORELINE DEVELOPMENT STANDARDS

A. Shoreline developments shall comply with all dimensional requirements of the Albion Municipal Code.

B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. There shall be a 35-foot maximum building height for all structures, except that utility facilities and bridges are not required to meet this standard. To exceed 35 feet, an applicant must comply with the following criteria:

1. Demonstrate overriding considerations of the public interest will be served; and

2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

Water-oriented structures shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, as well as accessory features such as lighting required for



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operations. All other structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 7.6(H)).

D. Shoreline buffers: See Subsection 5.D(3) of Appendix B (Shoreline Critical Areas Policies and Regulations).

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# 5. Shoreline Use Policies and Regulations

## 5.1 AGRICULTURE

A. Policies

1. Promote and maintain productive agricultural lands in shoreline jurisdiction to maintain the Town's economic and cultural vitality.
2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.
3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.
4. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.
5. Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

6. Appendix A (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
7. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.
8. SMP provisions shall apply in the following cases:
   a. New agricultural activities on land not meeting the definition of agricultural land;
   b. Expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
   c. Conversion of agricultural lands to other uses;
   d. Other development on agricultural land that does not meet the definition of agricultural activities; and
   e. Agricultural development and uses not specifically exempted by the SMA.
9. Feed lots and stockyards are prohibited in shoreline jurisdiction.
10. In those limited circumstances when this SMP applies to agricultural uses and activities per Subsection (3), shoreline buffers consistent with Subsection 5.D(3) of Appendix B shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection.



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11. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

12. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

13. Development in support of new agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

## 5.2 5.2 AQUACULTURE

A. Policies

1. Encourage aquaculture that supports the recovery of endangered or threatened fish species.

2. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with water-dependent uses.

3. Consider visual access and aesthetic quality of the shoreline in siting aquaculture facilities.

B. Regulations

1. Aquacultural facilities must be designed and located to avoid:

   a. The spreading of disease, especially to native aquatic life;
   b. Introducing new non-native species which cause significant ecological impacts;
   c. Significantly conflicting with other water-dependent uses;
   d. A net loss of ecological functions; or
   e. Significantly impacting the aesthetic qualities of and visual access to the shoreline.

2. All facilities shall comply with the Environmental Protection regulations in Section 4.3(B).

3. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, and commercial navigation. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

## 5.3 5.3 COMMERCIAL DEVELOPMENT

A. Policies

1. Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-oriented uses, including water-related and water-enjoyment uses, should be prioritized over nonwater-oriented commercial uses. (WAC 173-26-241(3)(d))

2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented should be encouraged to locate inland from the shoreline jurisdiction.



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3. Encourage new commercial development to locate in areas where commercial development uses already exist, and ensure that it does not significantly reduce scenic views or result in net loss of shoreline ecological function.

B. Regulations

1. Commercial development shall comply with the Environmental Protection regulations of Section 4.3 and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

2. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP.

3. Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses. Water-oriented uses, including water-related uses and water-enjoyment uses, shall be given priority over nonwater-oriented uses.

4. Commercial use that is not water-dependent shall not be allowed over water except where it is located within an existing building or where it is accessory to a water-dependent use.

5. Nonwater-oriented commercial development shall be prohibited unless they meet one of the following criteria:

   a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access or ecological restoration; or

   b. The commercial use provides a significant public benefit with respect to provision of public access or ecological restoration; or

   c. They do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline; or

   d. The proposed site is physically separated from the shoreline by another property or public right-of-way.

6. New commercial developments shall provide public access to the shorelines unless waived by the Town in accordance with the provisions of Subsection 4.8(C)(5). Water-enjoyment and water-related commercial uses are required to provide public access and ecological restoration where feasible and avoid impacts to recreation and public access.

## 5.4 5.4 IN-STREAM STRUCTURAL USES

A. Policies

1. Ensure the location, design, construction, and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.



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B. Regulations

~~1.~~ In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

~~2.~~1. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.

~~3.~~2. In-stream structures shall not be a safety hazard.

~~4.~~3. In-stream structures shall be designed by a qualified professional.

~~5.~~4. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to human safety.

~~6.~~5. In-stream structures shall comply with the Environmental Protection regulations in Section 4.3(B) and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (4.3(B)(4)), all structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

~~7.~~6. The applicant must obtain all other state, local and federal permits required for in-stream structures in addition to the requirement of this SMP.

## 5.5 5.5 INDUSTRIAL DEVELOPMENT

A. Policies

1. Recognize the importance of industrial uses to the Town and attract water-oriented uses for location in appropriate areas along the shoreline.

2. Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines and other State and Town regulations and that they achieve no net loss of shoreline ecological function.

B. Regulations

1. Industrial facilities that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.

2. In compliance with WAC 173-26-241(3)(f), industrial development shall be in accordance with the following regulations:

   a. Industrial development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

   b. In the review of shoreline developments, the Town shall give preference to water-dependent uses and then water-oriented industrial uses, in accordance with WAC 173-26-241(3)(f).



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c. Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporating public access as mitigation.

d. Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 4.8(B)(5).

e. Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

3. In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if:

a. The site is physically separated from the shoreline by another property or public right of way; or

b. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

c. The industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

## 5.6 5.6 RECREATIONAL DEVELOPMENT

A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between Town, County, and state agencies.

2. Prioritize shoreline recreational development that is related to access to, enjoyment and use of the water and shorelines of the state.

3. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.

4. Where appropriate, provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions and comply with the Environmental Protection regulations of Section 4.3.

2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with Town development standards.

3. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.

4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park or open space areas and trail access.

5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 5.3 (Commercial Development).



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## 5.7 RESIDENTIAL DEVELOPMENT

A. Policies

1. Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.
2. Residential development in the Town of Albion should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function.
3. Residential development should aim to minimize environmental impact through ecological restoration and other measures.
4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.
5. Prohibit new floating homes.

B. Regulations

1. New residential lots created through land division shall be in accordance with the following:
   a. Comply with all applicable subdivision and zoning regulations.
   b. Be consistent with applicable SMP environment designations and standards.
   c. Plats and subdivisions must be designed, configured, and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out of lots.
   d. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
2. Residential development, including accessory uses and appurtenant structures, shall:
   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.
   b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.
   c. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.
   d. In accordance with WAC 173-26-241(j), new floating homes shall be prohibited.
3. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use. (WAC 173-26-141(2)(a)(iii) and 173-26-211(3)(b))
4. All new residential developments and subdivisions shall comply with the Shoreline Stabilization regulations in Subsection 6.6(B)(1).



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## 5.8 5.8 TRANSPORTATION AND PARKING

A. Policies

1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.
2. Allow for maintenance and improvements to existing roads, railroads, and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.
3. Promote trail connections that are consistent with local and regional plans.
4. Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing proposed shoreline uses that are consistent with this SMP.

B. Regulations

1. Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:
   a. Minimize possible adverse effects on unique or fragile shoreline
   b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.
   c. Set back from the OHWM to the maximum distance feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, any applicable standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal (the shoreline buffer requirement would add more than 20% to the total project cost).
2. Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:
   a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.
   b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.
   c. Observe all regulations regarding critical areas and shoreline buffers.
   d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
3. Transportation proposals shall be consistent with circulation system plans for roads, railroads, pedestrian, bicycle, and public transportation. The SMP Administrator shall condition transportation proposals to be consistent with applicable Town, state, or federal plans and construction standards, as appropriate.

## 5.9 5.9 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.



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2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.

2. Utility projects within shoreline jurisdiction shall be designed to achieve no-net-loss of shoreline ecological function, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

3. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

4. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

5. Development of pipelines and cables in shoreline jurisdiction, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

## 5.105.10 REDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; and clarifies how SMP standards proportionally apply to redevelopment activities.

A. Policies

Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Appendix A (Definitions), unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.

2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.

3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:

a. The SMP Administrator shall determine the extent of compliance with SMP provisions.



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b. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

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# ~~6.~~ 6. Shoreline Modification Policies and Regulations

## 6.1 GENERAL REQUIREMENTS

6.1

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

2. As much as possible, the number and extent of shoreline modifications shall be limited.

3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (See Section 4.3(B)(4). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

5. Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.

6. All feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur shall be incorporated.

## 6.2 6.2 BREAKWATERS, JETTIES, WEIRS, AND GROINS

A. Policies

1. Allow breakwaters, jetties, weirs and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.



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B. Regulations

1. New, expanded or replacement structures shall only be allowed if it can be demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.
2. Breakwaters, jetties, weirs and groins shall be limited to the minimum size necessary.
3. Breakwaters, jetties, weirs and groins must be designed to protect critical areas, and shall implement mitigation sequencing to achieve no net loss of ecological functions.
4. Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.
5. Permit requirements and the level of approval required is regulated by Table 4.10-1 in Section 4.10.

## 6.3 6.3 DREDGING AND DREDGE MATERIAL DISPOSAL

A. Policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

B. Regulations

1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Section (4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g., shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.
2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. Dredging may only be permitted for the following activities:
   a. Development of essential public facilities when there are no feasible alternatives.
   b. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
   c. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
   d. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the



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maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

6. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

   a. Shoreline ecological functions and processes will be preserved, restored, or enhanced, including protection of surface and groundwater; and

   b. Erosion, sedimentation, floodwaters, or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

7. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:

   a. A description of the purpose of the proposed dredging activities.

   b. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.

   c. A description of proposed dredging operations, including, but not limited to:

      i. The method of removal.

      i. The length of time required.

      ii. The quantity of material to be initially removed.

      iii. The frequency and quantity of projected maintenance dredging.

   d. A description of proposed dredge material disposal, including, but not limited to:

      i. Size and capacity of disposal site.

      ii. Means of transportation to the disposal site.

      iii. Future use of the site and conformance with land use policies and regulations, if applicable.

   e. Plans for the protection and restoration of the shoreline environment during and after dredging operations.

   f. An assessment of potential impacts to ecological functions or processes from the proposal.

   g. A mitigation plan to address identified impacts, if necessary.

## 6.4 FILL AND EXCAVATION

A. Policies

1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.

2. Encourage fill when it is associated with restoration projects.



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B. Regulations

1. All fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (See Subsection 4.3(B)(4)).

2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when consistent with other provisions of this Master Program, including Appendix B (Shoreline Critical Areas Policies and Regulations) and Section 4.6 (Flood Hazard Management) necessary to support one or more of the following:

   a. Water-dependent uses.
   b. Public access.
   c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.
   d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.
   e. Ecological restoration or enhancement when consistent with an approved restoration plan.
   f. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.
   g. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance, or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

3. Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

   a. Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.
   b. Located outside applicable buffers, unless specifically allowed in buffers.

4. All fills, except fills for the purpose of shoreline restoration, must be designed:

   a. To be the minimum size necessary to implement the allowed use or modification.
   b. To fit the topography so that minimum alterations of natural conditions will be necessary.
   c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

## 6.5 6.5 SHORELINE RESTORATION AND ENHANCEMENT

A. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, National Marine Fisheries Service, and/or U.S. Fish and Wildlife Service.



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2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the Town or other entities.

4. Develop application processing guidelines that will streamline the review of restoration-only projects.

5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife, and plants.

B. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.

2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.

3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.

6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the Town to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

## 6.6 6.6 SHORELINE STABILIZATION

A. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.

2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.

3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.



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4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.

5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

B. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.

   a. Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

   b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.

2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.

3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows

   a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

   b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

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

      ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

      iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.

   c. In support of water-dependent development when all of the conditions below apply:

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

      ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.



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

d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:



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b. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

c. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the



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shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

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# 7. Administration and Permitting

## 7.1 GENERAL COMPLIANCE

7.1 RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

## 7.2 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

7.2

A. SMP Administrator

The Town shall designate an SMP Administrator, which shall be the Mayor or his or her designee. The SMP Administrator is hereby vested with the authority to:

1. Administrate this SMP.
2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.
3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.
4. Make field inspections as needed and prepare or require reports on shoreline permit applications.
5. Make written recommendations to the Planning Commission or Town Council as appropriate. The SMP Administrator shall make recommendations to the Council regarding Shoreline Substantial Development Permits, Shoreline Variances and Shoreline. Conditional Use Permits. The Shoreline Administrator shall recommend SMP amendments to the Planning Commission and Town Council.
~~5.~~6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
~~6.~~7. Determine and collect fees for all necessary permits as provided in Town ordinances or resolutions. The determination of which fees are required shall be established by resolution of the Town Council.
~~7.~~8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Albion Municipal Code.

C. Town Council

The Albion Town Council is authorized to:

1. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP. The local approval shall be sent to the Department of Ecology for final review following the local appeal period. The Department of Ecology has 30 days from receipt of a



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complete application to approve, deny or approve with conditions.

2. Review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the Town's planning and regulatory program.

3. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

4. Adopt all amendments to this SMP. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

5. Decide on appeals of administrative decisions issued by the Administrator of this SMP.

## 7.3 7.3 ADMINISTRATION

A. This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

B. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the Albion Zoning Ordinance Articles X and XI (General Administration and Enforcement) and Section 7.6 (Shoreline Permits and Exemptions) of this Chapter.

C. Shoreline Variances shall be processed inthe same manner as a variance from the Town's zoning code and shall be subject to all applicable provisions of Albion Zoning Code Article X (General Administration and Enforcement) and Section 7.6 (Shoreline Permits and Exemptions) of this Master Program.

~~B.~~D. Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the Town or by Ecology as provided for in RCW 90.58.140(6).

~~C.~~E. The effective date of the Town's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

## 7.4 7.4 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The Town of Albion and/or Ecology is authorized to enforce the provisions of this Master Program, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. When enforcement is undertaken by the Town, this Program shall also be enforced by the means and procedures set forth in the Albion Zoning Code.

## 7.5 7.5 SHORELINE ACTIVITY TRACKING

A. Tracking.

The Town will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include



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development, conservation, restoration, and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring
6. Net change in linear feet of flood hazard structures
7. Net changes in vegetation (area, character)

B. No net loss report.

Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the Town's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Final Shoreline Analysis Report (August 2014), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

## 7.6 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the Town. At a minimum, the Town shall provide notice in accordance with WAC 173-27-110 and shall be consistent with noticing requirements in the Albion Municipal Code.
2. Per WAC 173-27-120, the Town shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Exemptions from a Substantial Development Permit - Application and Interpretation

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.
2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.
3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.



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5. The Town may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the Town's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

1. The shoreline activities listed in WAC 173-2040, WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter of Exemption, as provided for in Subsections (B) and (D) of this Section.

2. Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.

3. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

   a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D.RCW or the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

   b. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

   c. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

   d. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

4. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

D. Letter or Statement of Exemption

1. Letters of Exemption.

   a. A required Letter of Exemption shall be issued by the Town when a development application is determined to meet the listed criteria for an exemption and the development is required to obtain a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

   b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the Town's analysis of the
   consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

2. Statement of Exemption.



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a. The Town may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The Statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.

b. Statements of Exemption shall be obtained by applicants whose projects meet any of the exemptions listed in Subsection 18.04.306(C), and which may alter or disturb the ground or vegetation. The Statement of Exemption shall be sent to the applicant and the Department of Ecology.

3. Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

E. Permit application submittal requirements

1. Shoreline applications are classified as follows:

a. Shoreline Substantial Development Permit

b. Shoreline Conditional Use Permit

c. Shoreline Variance

d. Shoreline Exemption

2. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the Town.

~~2.~~3. The contents of permit applications must be consistent with WAC 173-27-180 and Albion Zoning Code.

~~3.~~4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

~~4.~~5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.

~~5.~~6. At the time of application, the applicant must pay the application fee.

F. Shoreline Substantial Development Permit

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 7.6(B) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 1.5 (Applicability).

2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

a. The policies and procedures of the SMA;

b. The provisions of WAC 173-27; and

c. This SMP.

3. The Town may attach conditions to the approval of permits as necessary to assure



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consistency of the project with the SMA and this SMP.

4. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Town Council and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Article VI of the Albion Zoning Code.

2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.

~~4.~~5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Article X of the Albion Zoning Code.

2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.



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4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the County to Ecology upon a final decision by the County consistent with WAC 173-27-130 (filing with department), and then processed by Ecology consistent with WAC 173-27-190 (permits for substantial development, conditional use, or variance) and WAC 173-27-200 (department review of conditional use and variance permits).

J. Time Limits

Construction and activities authorized by a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance are subject to the time limitations of WAC 173-27-090 (Time requirements of a permit).

K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

## 7.7 7.7 NON-CONFORMING USES, STRUCTURES, LOTS

A. Non-conforming uses or developments ~~or developments~~ are shoreline uses or development ~~or development~~ which were lawfully constructed or ~~constructed or~~ established prior to the effective date of this Master Program as approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable Town regulations.

B. Non-conforming Uses

1. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non-conforming use.

2. A use which is listed as a conditional use, but which existed prior to adoption or applicability of this Master Program or any relevant amendment and for which a Shoreline Conditional Use Permit has not been obtained shall be considered a non-conforming use.

3. If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.



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~~1.~~ In accordance with Albion Zoning Code Article V, a nonconforming use is allowed to continue provide it is not enlarged. A non-conforming use may be converted to a permitted use at any time in compliance with the provisions of this Master Program.

4.

5. A use of a property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

~~B.~~C. Non-conforming ~~Uses and~~ Structures

1. ~~Lots, s~~Structures~~, and uses~~ that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this Program. ~~A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.~~

2. Any structure which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non-conforming use.

~~1.~~3. A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements of this Section shall apply as they apply to preexisting non-conformities.

~~2. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.~~

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~~3. If a nonconforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use.~~

~~4. In accordance with Albion Zoning Code Article V, a nonconforming use is allowed to continue provide it is not enlarged. A non-conforming use may be converted to a permitted use at any time in compliance with the provisions of this Master Program.~~

~~C.~~D. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

~~D.~~E. Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

1. Alteration, expansion, or restoration of nonconforming structures and uses are not allowed except as set forth in this Master Program and in Albion Zoning Code Article V.

2. Any nonconforming structure which is moved any distance must be brought into conformance with this Master Program and the SMA.

3. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this Section shall apply as they apply to pre-existing nonconforming structures and uses.

4. Legally existing structures 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.

5. Alteration or expansion of a nonconforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

~~E.~~F. Pre-existing Legal Residential Uses. Notwithstanding Subsections (A) to (D) of this Section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Chapter:

1. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

2. The Town shall allow redevelopment, expansion, or change with the class of occupancy,



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of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

~~2.~~3. Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location subject to WCC 19.54.040(B).

~~3.~~4. For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

~~4.~~5. Nothing in this Section shall:

~~A.~~i. Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

~~B.~~ii. Affect the application of other federal, state, or Town requirements to residential structures.

## 7.8 DEBRIS ACCUMULATION AND OBSTRUCTION

1. Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, and Chapter RCW 90.58, the following activities shall be prohibited in shoreline jurisdiction or within a floodplain:

   a. The outside storage within the shoreline jurisdiction of abandoned, discarded or unused objects or equipment, excluding operational farm-related equipment or material; including but not limited to tires, household furniture, stoves, refrigerators, and freezers.

   b. The outside accumulation within the shoreline jurisdiction of two or more cubic yards of waste, rubbish, and trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded, or unused material, unless kept in covered bins or receptacles or specifically authorized as a permitted use.

   c. The presence of any unattached vehicle or boat parts and/or abandoned or inoperable vehicles and/or boats that have remained in the same location or on the same contiguously owned property for more than sixty consecutive days, within the shoreline jurisdiction.

   d. Alteration waterward of the OHWM without applicable permits.

   e. An act, or omitting to perform a duty, which act or omission either:

      i. Annoys, injures or endangers the comfort, repose, health or safety of others;

      ii. Unlawfully interferes with, befouls, obstructs, or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or

      iii. In any way renders other persons insecure in life, or in the use of property.

2. The provisions in Subsection (1) shall be enforced by the SMP Administrator and/or other Town staff.

## 7.9 7.9 AMENDMENT OF SHORELINE MASTER PROGRAM

A. Purpose of Amendment.



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This SMP carries out the policies of the Shoreline Management Act for the Town of Albion. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and

2. Assure consistency of this SMP with the Town's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date.

This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

C. Amendment Process.

1. Future amendments to this SMP may be initiated by any of the following:

   a. Town of Albion SMP Administrator;

   b. The Town Planning Commission, upon their initiative, or at the request of the Town Council by motion, or at the request of the SMP Administrator; and

   c. The Town Council.

2. Applications for SMP amendments shall specify the changes requested and any and all reasons, therefore. Applications shall be made by a written request delivered to either the SMP Administrator or the Town Council. Such written request shall contain information specified in the Town's procedures for regulation amendments and information necessary to meet minimum public review procedures.

3. The Town shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

4. Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the Town Council, who shall approve or deny the proposed amendment following their open record hearing.

5. Prior to approval, the Town shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):

   a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

   b. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and

   c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).

6. After approval or disapproval of an SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the Town shall publish a notice that the SMP amendment has



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been approved or disapproved by Ecology.



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# Appendix A: Definitions

## A

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

**Accessory dwelling unit**. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory use or structure**. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

**Act**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent**. To be nearby and not necessarily abutting.

**Administrator or SMP Administrator**. The Town designee charged with the responsibility of administering the Town of Albion SMP.

**Advance mitigation.** Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

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

**Agricultural equipment and agricultural facilities**. Includes, but is not limited to:

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

**Agricultural land**. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to the SMP Guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.



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

**Agricultural related industries**. Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughterhouses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughterhouses or rendering plants.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands**. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Alkali wetlands**. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

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

**Amendment**. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Appeal.** A request for a review of the interpretation of any provision of this chapter or a request for a variance.

**Applicant.** A person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

**Approval**. An official action by a local government legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this chapter; or



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an official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture**. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer**. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer recharge areas.** Having a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the certifiable potability of water (WAC 365-190-030).

**Aquifer, sole source**. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Associated wetlands**. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

## B

**Base flood or 100-year flood**. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the Town of Albion; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the Town of Albion.

**Best management practices or BMP**. Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment; Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands; Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and Provide standards for proper use of chemical herbicides within critical areas.

**Board of Adjustment**. The Town of Albion Board of Adjustment.

**Boating facilities**. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.



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**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;
3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

## C

**Channel migration zone or CMZ**. The area along a river within which the channel can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Comprehensive Plan**. The officially adopted document and any amendments or supplements thereto adopted by the Town of Albion, which sets forth policies and standards for determining the best use of land and other resources of the Town.



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**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area (CARA)**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical facility**. A facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

**Critical habitat.** Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

## D

**Dairy**. A farm operation producing milk products for commercial sales.

**Data maps.** That series of maps maintained by the Town or its referenced repository for the purpose of graphically depicting the boundaries of critical areas.

**Developable area.** A site or portion of a site that may be utilized as the location of development.

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; and



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4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.

~~4.~~5. Dismantling or removing structures if there is no other associated development or re-development.

**Development permit**. Any permit issued by the Town, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by the Town of Albion, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before zoning, shorelines, or critical areas permits were required for such operations. Dredging, as regulated in this SMP under Section 6.3 (Dredging and Dredge Material), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

## E

**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Enhancement**. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the



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vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

**Erosion**. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard.

**Excavation**. The mechanical removal of earth materials.

**Exempt.** Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

## F

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

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action.

In cases where this Master Program requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Town may weigh the actions' relative public costs and public benefits, considered in the short-and long-term time frames.

**Federal Emergency Management Agency (FEMA).** The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

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

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as



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designated by WAC 365-190-130 and Section 5.B of Appendix B.

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood Insurance Rate Map (FIRM)**. 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**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to, road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.



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**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

## G

**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.
3. Rough grade is a stage where grade conforms approximately to an approved plan.
4. Finish grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin**. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also "Weir."

**Groundwater**. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines**. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to



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adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

## H

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

**Hard stabilization**. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber, or other materials to construct linear, vertical, or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**High intensity land use**. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, some agricultural practices, and commercial and industrial land uses.

**Houseboat or floating home**. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

**Hydric soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

## I

**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi- finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-Rill**. Areas subject to sheet wash.

**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any



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surface water, including other wetlands.

## J

**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

## L

**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors.

**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

## M

**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**Manufactured home**. 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."

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

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. The use of any or all of the following actions that are listed in descending order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;
4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses use or



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developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic, and geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.

## N

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the Town's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified, and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Nonconforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 Town and so long as development conforms to all other requirements of this Master Program and the Act.

**Nonconforming Use.** An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.

**Non-~~conformingStructure~~conforming Structure/Development**. A building or structure which was lawfully established, existing and maintained at the effective date of the provisions of this title but which, because of the application of this title to it, is no longer fully consistent with present regulations such as setbacks, buffers; area; bulk, height or density standards due to subsequent changes to the master program. prescribed in this title for the use district in which it is located.

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water- enjoyment.

## O

**Off-Site Compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-Site Compensation**. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

**Ordinary high-water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the Town or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

## P

**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.



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**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

**Potable water.** Water that is safe and palatable for human consumption.

**Poultry**. Domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

**Practical alternative**. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Priority habitat and species (PHS)**: As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(29)).

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or Town zoning are not considered appropriate and are not allowed.

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation, and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.



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**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

## R

**Recharge**. The process involved in the absorption and addition of water to groundwater.

**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching, or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreational vehicle.** A vehicle which is:

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.

**Recreation uses**. Public, private, or commercial uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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



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substantial adverse effects to shoreline resources or environment.

**Residential**. Buildings, structures, or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

## S

**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic Hazard Areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback**. The distance in feet as measured from a lot line to the sill line of a building, or the closest point of a structure to the lot line. In the case where there is a leased area within a parcel of land, the setback shall be measured from the lease line to the sill of a building, or the closest point of a structure to the lease line.

**Shall**. A mandate; the action must be done.

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

**Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

1. Shorelines of statewide significance [not found in the Town of Albion];
2. 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
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes [not found in the Town of Albion].

**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A State-level six member quasi-judicial body, created by the Shoreline Management Act, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the Town on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.



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**Shorelines of statewide significance**. The following shorelines of the state:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark; [not found in the Town of Albion]

2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer; and [not found in the Town of Albion]

3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

**Should**. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

**Significant adverse effect/impact.** Any noticeable or measurable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**SMP Administrator**. See "Administrator."

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection, or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs, and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

**Special flood hazard areas.** The land in the floodplain within an area subject to a one percent or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.



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**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern designated by the Town due to their population status or their sensitivity to habitat manipulation.

**Species, Priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, Threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, Sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)). "Structure," for the purposes of applying the regulations prescribed by Section 6 of Appendix B (Geologically Hazardous Areas), shall mean any walled and roofed building or mobile home that is principally above ground.

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $8,504, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment, or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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



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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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the Town Clerk/Treasurer, Town Building Inspector, other Town staff, or County Environmental Health and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

**Substantially degrade**. To cause significant ecological impact.

## T

**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

## U

**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

## V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in the Town of Albion if it were not for the presence of tourists or visitors to the region.

## W

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water, and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. A recreational use or other use that facilitates public access to the shoreline as a primary

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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**. Any water-dependent, water-related, or water-enjoyment use.

**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

**Water table.** That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control theerosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, or other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Well.** A bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface

dimension for the purpose of withdrawing or injecting water or other liquids.

**Wetlands**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

**Wetland functions**. The natural processes performed by wetlands and included functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial, or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in
U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

## Z

**Zoning Code**. The Albion Zoning Code, adopted June 1, 1971 as Town Ordinance No. 96 and amended on March 2, 1978 as part of Town Ordinance No. 139, or as amended.



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# Appendix B: Shoreline Critical Areas Policies and Regulations



## 1. Policies

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 2. General Regulations

A. Purpose, intent, and applicability.

1. The purpose of this Appendix B is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with state law while allowing for reasonable use of private property. By adopting this Appendix of the Master Program, the Town of Albion acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property. Critical areas regulated by this Appendix B include:
   a. Wetlands as designated in Section 3 of this Appendix B,
   b. Critical aquifer recharge areas as designated in Section 4 of this Appendix B,
   c. Fish and wildlife habitat conservation areas as designated in Section 5 of this Appendix B, and
   d. Geologically hazardous areas as designated in Section 6 of this Appendix B.
2. All areas within the Town's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Appendix B.

B. Data Maps.

1. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at Town Hall.
2. The critical areas data maps are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the SMP Administrator to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable provisions, sections, and chapters of the Albion Municipal Code.
3. Interpretation of Data Maps.



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a. The SMP Administrator will interpret data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the Town Council.

b. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this Appendix B. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this Master Program. All development applications are required to show the boundary(ies) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

4. Application of Data Maps. The conclusion of the SMP Administrator that a parcel of land or a part of a parcel of land that is the subject of a proposed development application is within the boundary(ies) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the Town will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

5. The critical area overlay zone in shoreline jurisdiction consists of that area within 250 feet of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25-foot buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within shoreline jurisdiction and the critical area overlay zone shall be subject to project review as required in this Appendix B unless specifically exempted.

C. Permitted, conditional and prohibited uses.

Uses allowed by Shoreline Exemption, a Shoreline Substantial Development Permit, or Shoreline Conditional Use Permit, or uses altogether prohibited in the critical areas overlay zone shall be the same as those allowed in the underlying zoning district and environment designation as established in this SMP.

D. General Regulations.

1. Shoreline permits or shoreline exemptions, and any other Town-required permits, for activities within the critical areas overlay zone and shoreline jurisdiction, as defined on the data maps (Subsection 2.B of this Appendix B), shall be subject to review under the provisions of this section, excepting: (1) those activities specifically exempted from a critical areas report in Subsection 2.D(3) of this Appendix B; and (2) agricultural activities. As part of this review, the Town shall:

   a. Verify the information submitted by the applicant;

   b. Evaluate the project area and vicinity for critical areas;

   c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

   d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

2. Critical Areas Report.

   a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:

      i. The name and contact information of the applicant, a description of the proposal, and

identification of the permit requested;

ii. A copy of the site plan for the development proposal including:

a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;

iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;

v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

vii. An analysis of site development alternatives including a no development alternative;

viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) to avoid, minimize, and mitigate impacts to critical areas;

ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements Subsections 4.3(B)(6) and Subsection 2.E(4) of this Appendix B, including, but not limited to:

a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties, and the environment.

x. A discussion of the performance standards applicable to the critical area and proposed activity;

xi. Any additional information required for the critical area as specified in the corresponding section.

b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

3. The following activities shall be allowed in critical areas and their buffers without a critical areas report, provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area:

a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;

c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

d. Education, scientific research and use of nature trails;

e. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

f. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;



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g. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

h. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

i. Chemical Applications. The application of herbicides, pesticides, organic or mineral- derived fertilizers, or other hazardous substances, if necessary, as approved by the Town, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

j. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

E. Protection of Critical Areas.

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with Subsection 4.3(B)(4) to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.to

F. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

~~1.~~2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

~~2.~~3. Mitigation shall not be implemented until after Town approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

~~3.~~4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the Town a mitigation plan as part of the critical area report. The mitigation plan shall include:

a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and



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dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

iii. An analysis of the likelihood of success of the compensation project.

b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

i. The proposed construction sequence, timing, and duration;

ii. Grading and excavation details;

iii. Erosion and sediment control features;

iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

v. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

~~d.~~e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

~~4.~~5. Innovative Mitigation

a. The Town may approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

ii. The group demonstrates the organizational and fiscal capability to act cooperatively;

iii. The group demonstrates that long-term management of the habitat area will be provided; and

iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the





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required replacement ratios.

G. Review Criteria.

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

   a. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing requirements in Subsection 4.3(B)(4);

   b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

   c. The proposal is consistent with the general purposes of this Section and the public interest;

   d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.E of this Appendix B;

   e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and

   f. The proposal is consistent with other applicable regulations and standards.

2. The Town may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.

3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) shall be denied.

H. Unauthorized Critical Area Alterations and Enforcement.Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 (Enforcement, Violations, and Penalties) and the following.

~~4.~~1. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The Town shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

~~5.~~2. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the Town. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 2.G(3) of this Appendix B. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

~~6.~~3. Minimum Performance Standards for Restoration

   a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

      i. The historic structural and functional values shall be restored, including water quality and habitat functions;

      ii. The historic soil types and configuration shall be replicated;

      iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and



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iv. Information demonstrating compliance with the mitigation plan requirements in Subsection 2.E(4) of this Appendix B shall be submitted to the SMP Administrator.

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

~~7.~~4. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The Town may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section. The civil penalty shall be assessed by the amount set forth in applicable Town regulations.

D. If a development permit is sought for critical area property that is located partly in the Town's shoreline jurisdiction, and partly in unincorporated Whitman County's shoreline jurisdiction, the SMP Administrator or designee shall coordinate the Town's review of the project with the appropriate county officials.

## 3. Wetlands.

B. Delineation.

The existence of a wetland and the location of its boundary shall be determined by the applicant through the performance of a field investigation applying the methodology of the approved federal wetland delineation manual and applicable regional supplements, in accordance with WAC 173-22-035, as amended. Delineations shall be performed by a qualified wetland professional.

B. Rating.

Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met: Rating categories shall be applied as the wetland exists at the time of the associated permit application. Wetland rating categories shall not change due to illegal modifications.

1. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;
3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that
1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.



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2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

3. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV: wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

C. Standard Wetland Buffer Widths.

The standard buffer widths in Table B.3-1 of this Appendix B have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.

1. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-1 below.

2. The use of the standard buffer widths requires the implementation of the measures in Table B.3-2, where applicable, to minimize the impacts of the adjacent land uses.

3. If an applicant chooses not to apply the mitigation measures in Table B.3-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

4. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.

   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.



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**Table B.3-1 Wetland Buffer Requirements**

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category I: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Bogs and Wetlands of High Conservation Value | 190 ft | | | |
| Category I: Alkali | 150 ft | | | |
| Category II: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category II: Vernal pool | 150 ft | | | |
| Category II: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category III (all) | 60 ft | Add 30 ft | Add 60 ft | Add 140 ft |
| Category IV (all) | 40 ft | | | |

**Table B.3-2. Required measures to minimize impacts to wetlands**
(Measures are required, where applicable to a specific proposal)

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | Use best management practices to control dust |

D. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator council finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available, that at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species, or
2. The wetlands are used by species proposed or listed by the federal government or the state as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or
4. The adjacent land has minimal vegetative cover or slopes greater than 25 percent.

E. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

F. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

G. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the monitoring period (Subsection 2.E(4)(d) of this Appendix B).

H. Allowed Buffer Uses.

The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
2. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
   a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
   b. Wildlife-viewing structures.
3. Educational and scientific research activities.
4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or



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use of the facility or right-of-way.

5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

7. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

8. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

   a. No other location is feasible; and
   b. The location of such facilities will not degrade the functions or values of the wetland; and
   c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

9. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

10. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

I. Compensatory Mitigation.

1. Projects that propose compensation for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Subsection
2.E of this Appendix B and Subsection 4.3(B)(6), as well as Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06- 07, November 2010).

2. Wetland mitigation ratios shall be consistent with Table B.3-3.

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**Table B.3-3. Wetland Mitigation Ratios**

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Wetlands with High Conservation Value | Not considered possible | Case by case | Case by case |
| Category I: Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

3. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-3, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

4. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

5. Wetland Mitigation Banks.

   a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

      i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,

      ii. The SMP Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and

      iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

   b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

   c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

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## 4. Critical aquifer recharge areas.

A. Septic Requirements.

In areas within shoreline designation designated as high susceptibility for aquifer contamination, all uses shall be connected to the Town's sewer system, except new uses on a septic system in the aquifer protection areas may be allowed with approval of the Town Council.

B. Disclosure Form.

For uses within shoreline jurisdiction locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

C. General Standards.

1. Impervious surfaces shall be minimized within the critical aquifer recharge area.

2. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction, to ensure that potential contaminants do not reach the aquifer.

3. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the Town and local fire district.

## 5. Fish and wildlife habitat conservation areas.

A. Designation

1. All areas within the shoreline jurisdiction of the Town of Albion meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include the following:

a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.

i. Federally designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service should be consulted as necessary for current listing status.

ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the state Department of Fish and Wildlife, and those native plant species identified by the Department of Natural Resources, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The Washington Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.

iii. A combined list of federally and state identified species having the potential to exist within shoreline jurisdiction is maintained by the Town.

b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and

species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife.

c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the Town, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, such as high quality native plant communities, and those with historical or cultural importance.

d. Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

e. Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.

f. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

g. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the state Department of Natural Resources.

h. Land Essential for Preserving Connections between Habitat Blocks and Open Spaces.

The SMP Administrator shall be responsible for making final habitat conservation area designations in shoreline jurisdiction within the Town.

2. Mapping. The approximate location and extent of habitat conservation areas are shown on the following maps, which are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

a. Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Resident salmonid distribution maps contained in studies conducted by the local watershed planning unit or in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

c. Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

d. Town of Albion habitat maps.

These maps are to be used as a guide for the Town, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

B. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:



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a. The project area of the proposed activity;
b. All habitat conservation areas and recommended buffers within 200 feet of the project area; and
c. All shoreline areas, floodplains, and other critical areas, and related buffers within 200 feet of the project area.

3. Habitat Assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:

a. A detailed description of vegetation on and adjacent to the project area;
b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
c. A discussion of any federal, state, or local special 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 the project area;
d. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Subsection 2.E of this Appendix B; and
e. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional Information. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the critical area report to include:

a. An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and
b. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

5. Waiver. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

C. General Requirements Pertaining to Habitat Conservation Areas.

1. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may be altered only if the proposed activity, including associated mitigation measures, does not degrade the quantitative and qualitative functions and values of the habitat and other critical areas.

2. Non-indigenous Species Shall Not Be Introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a local, state, or federal permit or approval.

3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to

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minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

a. Establishment of buffer zones;
b. Preservation of critically important vegetation;
c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
d. Seasonal restriction of construction activities;
e. Establishment of a duration and timetable for periodic review of mitigation activities; and
f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Approvals shall be supported by the most current, accurate, and complete scientific and technical information available. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

7. Buffers.

a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.D(3) below.

b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

c. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

i. It will not reduce habitat functions;
ii. It will provide additional natural resource protection, such as buffer enhancement;
iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

a) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

b) The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

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d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

8. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

*"Habitat Conservation Area Do Not Disturb Contact*
*Town of Albion Regarding Uses and Restrictions"*

c. Fencing.

i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.

ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

9. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

i. Is located outside of the habitat conservation area and its buffer; and

ii. Meets the minimum lot size requirements of Town's zoning code.

c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists, and these facilities are otherwise established consistent with the provisions of this Chapter.

D. Development Standards for Specific Species or Habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

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b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the SMP Administrator. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and the appropriate federal agency.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet, or within one-quarter mile (1,320 feet) and in a shoreline foraging area. The SMP Administrator shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the U.S. Fish and Wildlife Service.

2. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland standards set forth in Section 3 of this Appendix B, in addition to meeting the habitat conservation area standards in Section.

3. Stream Buffers.

a. Activities Shall Not Degrade the Functions and Values of Stream Buffers. Unless otherwise allowed in this Chapter, all structures and activities shall be located outside of the stream and buffer. A proposed activity may only be permitted in a stream or buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the stream, its buffer, and other critical areas.

b. Establishment of stream buffers. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, springs, and lakes.

c. Standard Stream Buffers.

i. Stream buffer widths for the South Fork Palouse River by environment designation are shown in Table B.5-1. A stream shall have the standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(e) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(f) of this Appendix B.

ii. Any tributaries of the South Fork Palouse River shall have a 50-foot standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(d) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(e) of this Appendix B.

iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer that applies in the landward designation is that buffer which is specified for that designation and is still measured from the ordinary high water mark.

~~B.~~ Table B.5-1 Stream Buffers

| Environment Designation | South Fork Palouse River[1] |
|---|---|
| All Designations | For water-dependent developments, no buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| Urban Conservancy | The lesser of 100 feet or the waterward edge of an improved public road or railroad |
| Shoreline Residential | 50 feet |
| High Intensity | The lesser of 75 feet or the waterward edge of an improved public road or railroad |

[1] Shoreline stream buffers are based on existing conditions in each environment designation

d. Increased Stream Buffer Width. The buffer width shall be increased, as follows:
   i. When the SMP Administrator determines that the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or
   ii. When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

e. Buffer width averaging. The SMP Administrator may allow the buffer width of a stream to be reduced in accordance with a critical area report only if:
   i. The width reduction will not reduce stream habitat functions, including those of non-fish habitat;
   ii. The width reduction will not degrade the habitat;
   iii. The proposal will provide additional habitat protection;
   iv. The total buffer area of each stream on the development proposal site is not decreased;
   v. The buffer width is not reduced by more than 25% in any one location;
   vi. The buffer width reduction will not be located within another critical area or associated buffer; and
   vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

f. Stream and Stream Buffer Mitigation. Mitigation of adverse impacts to streams and stream buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

g. Alternative Mitigation for Stream Buffers. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub- drainage basin as a result of alternative mitigation measures.

h. Uses and modifications allowed in stream buffers. The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.
   i. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced buffer unless at least one of the following is met:



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a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility;

b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses; or

c) The accessory use, development or activity can be located upland of the water-dependent use; or

d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a stream buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

ii. Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures are allowed in buffers provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and this Appendix B (Shoreline Critical Areas Policies and Regulations). The Town may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

iii. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner, or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

iv. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this Chapter. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

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## 6. Geologically hazardous area.

A. Buffers.

1. A minimum 25-foot buffer shall be established from the top, toe, or sides of an identified geological hazard in shoreline jurisdiction (as identified by the U.S. Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills, or steep slope areas (40 percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety, and welfare, based on information contained in the geotechnical report prepared by a qualified professional engineer.

2. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

   a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.

   b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

   c. The proposal mitigates all impacts identified in the geotechnical report.

B. Allowed activities.

The following activities are allowed in seismic and mine hazard areas:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,

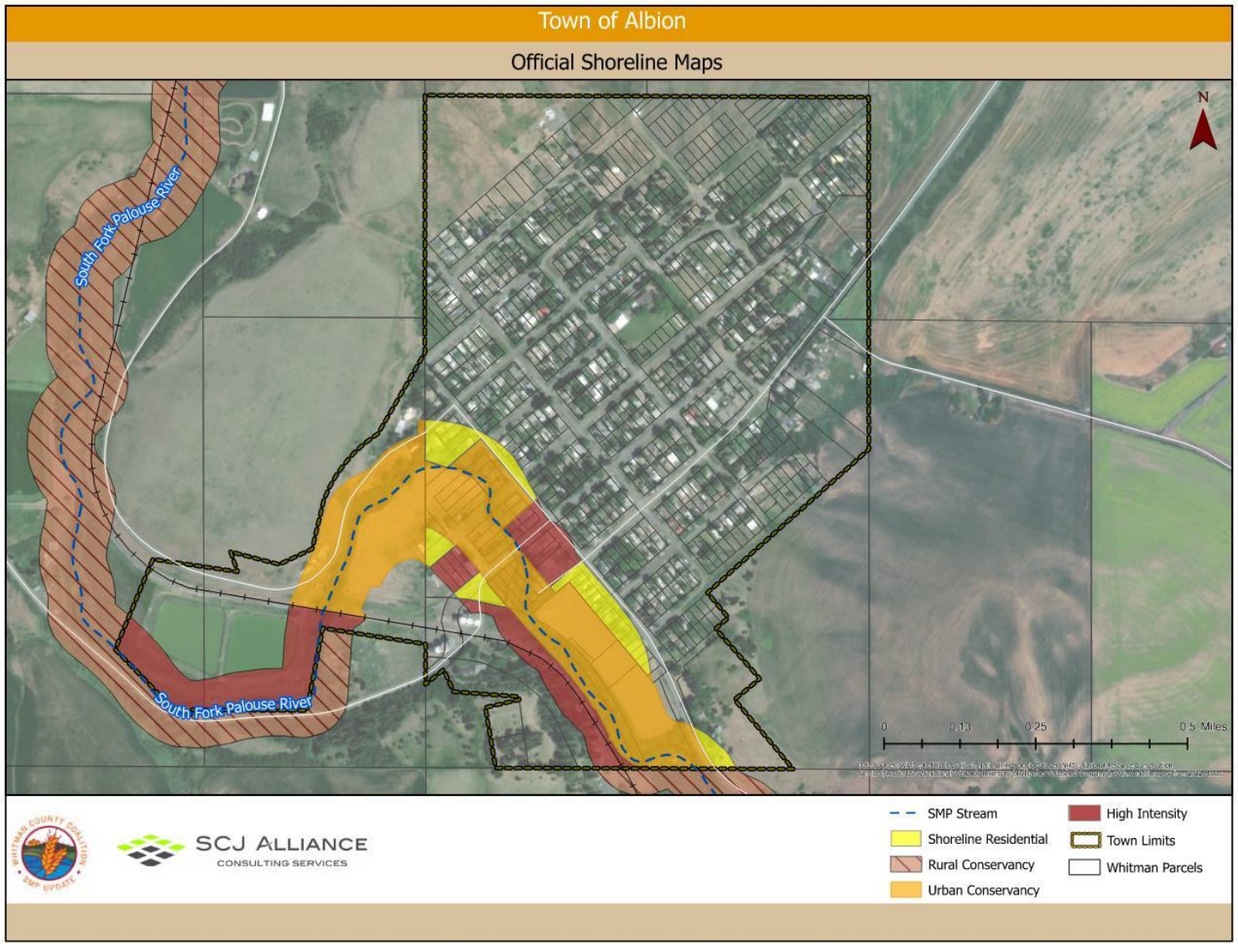
2. Additions to existing single-story residences that are 250 square feet or less,

3. Installation of fences.

C. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

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# Appendix C: Shoreline Environment Designation Map



# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| SCJ Alliance | Albion | 1/4/23 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| ***Row*** | ***Summary of change*** | ***Review*** | ***Action*** |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended floating **on-water residences** provisions | Pg. 31, Ch 5, Sec 7, B, 2, d. "new floating homes shall be prohibited." | No Action Needed |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | Pg. 29, Ch. 5, Sec 4, B, 1 Mentions fish passage. Pg. 45, Ch. 7, sec 6, C. contains reference to RCW 90.58.147 A-7 Definition of "Exempt" contains reference to RCW. | Could use inclusion of example language for clarity. **Added DOE example language. Pg. 45, 7.6, C, 2** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | Boating facilities (e.g., docks) are a prohibited use. | No Action Needed |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $8,504. | A-19 Definition of Substantial Development | Needs updated to include newest threshold. **Updated to $8,504 (ECY 7/1/22)** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Definition does not include mention of dismantling or removing structures. | Could use inclusion of clarifying language. **Added language to definition of development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | Pg. 45, Ch. 7, Sec 6 contains reference to RCW 90.58.355 but does not specify exceptions | Inclusion of DOE example language could help to clarify updates. **Added 7.6.C.3.** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | Pg 49, Ch. 7, Sec 6, I. References that jurisdiction sends the permit and then WACs for detailed instructions. | No Action Needed |
| **e.** | Ecology amended **forestry use regulations** to clarify that forest | Pg. 22. Table 4.10-1. Forest Practices are a prohibited use | No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | in shoreline jurisdiction. | |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | Pg. 45, Ch 7, Sec 6, C, 1, not listed under exemptions. | Update needed to include DOE example language **Added DOE Example language under Ch. 1, sec 5, C, 6** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | Pg. 49, Ch 7, sec 7 & Definitions pg A-14 both have "uses" and "structures" combined. | Update needed to both sections to separate these to align with DOE examples. **Separated definitions on Pg. A-14.** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language<br><br>**Added 7.6, C, 4** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Appendix B, Chapter 3, B references Eastern Washington rating system | No Action Needed |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | 90.58.140 referenced under 7.6, C, 1. | No Action required unless further clarification is wanted such as DOE example language. |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined. | No Action Needed |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under 'Wetland edge' definition. A-23 | No Action Needed |
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines. | No Action Needed |
| **c.** | The Legislature created a new definition and policy for **floating** | Floating homes are prohibited | No Action Needed |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | **homes** permitted or legally established prior to January 1, 2011. | | |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | Ch 7.7, D, 5 contains appropriate language | No Action Needed |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language | No Action Needed |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language | No Action Needed |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language | No Action Needed |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language | No Action Needed |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| **Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment?** | ☐ | Yes | Not applicable. |
| | ☒ | No | |
| **Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment?** | ☐ | Yes | |
| | ☒ | No | |
| **Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment?** | ☐ | Yes | |
| | ☒ | No | |
| **Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version?** | ☐ | Yes | |
| | ☒ | No | |
| **Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated?** | ☐ | Yes | |
| | ☒ | No | |
| **Other** | ☐ | Yes | |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

## Changes to local circumstance, new information, or improved data

| Question | Answer | | Discussion |
|---|---|---|---|
| **Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment?** | ☐ | Yes | |
| | ☒ | No | |
| **Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment?** | ☐ | Yes | |
| | ☒ | No | |
| **Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP?** | ☐ | Yes | |
| | ☒ | No | |
| **Are there any Moratoria in place affecting development in the Shoreline?** | ☐ | Yes | |
| | ☒ | No | |
| **Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references.** | ☐ | Yes | |
| | ☒ | No | |
| **Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP?** | ☐ | Yes | |
| | ☒ | No | |

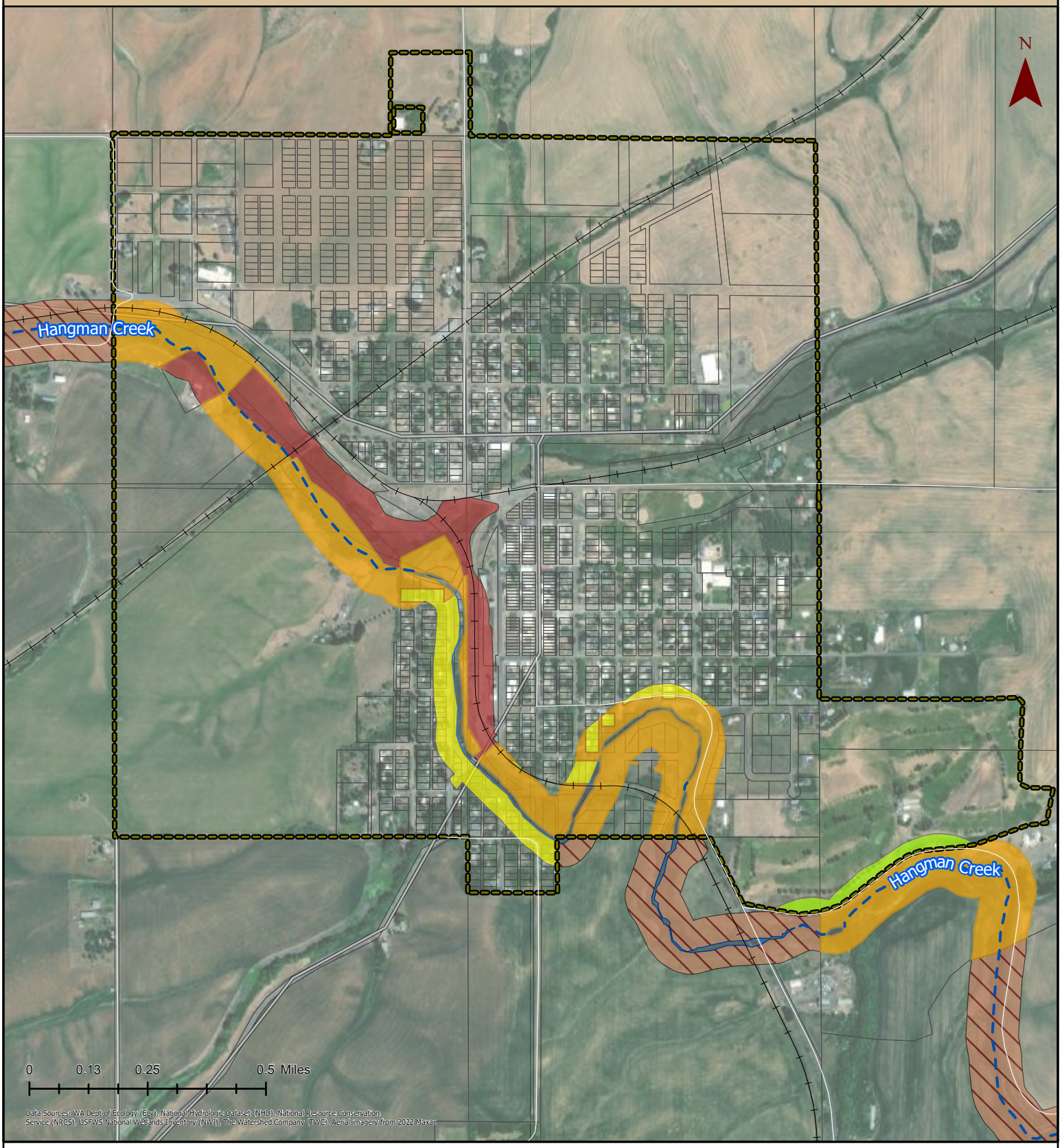
If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

# Town of Tekoa

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Rural Conservancy
- Urban Conservancy
- High Intensity
- Town Limits
- Whitman Parcels




# CITY OF TEKOA

# SHORELINE MASTER PROGRAM

**Adopted Ord. XX**
**Approved by Ecology XX**
**Effective XX**
**Periodic Update Working Draft: January 11, 2023**

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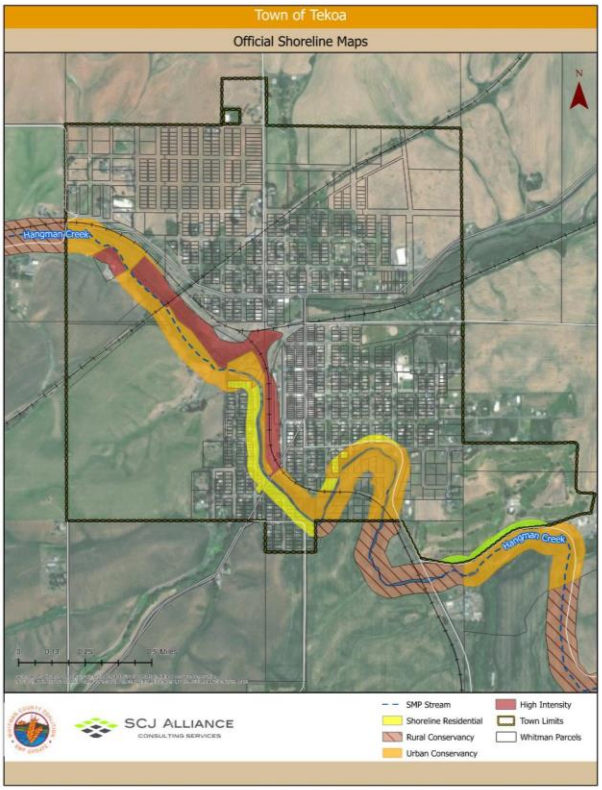
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# READER'S GUIDE

## A. The Shoreline Management Act and the City of Tekoa's SMP

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses. The City developed and adopted its first Shoreline Master Program (SMP) in 1974 as part of a regional effort with Whitman County. That SMP was developed almost 40 years ago and since then there has been some change along the City's shoreline. In addition, knowledge of best development and conservation practices has evolved.




There have also been changes in State laws and rules. Therefore, in accordance with the SMA, the City has prepared this SMP to guide and manage its shoreline.

The City of Tekoa SMP contains goals, policies, regulations, and a shoreline environment designation map that guide the development of shorelines in accordance with the SMA (Revised Code of Washington [RCW] 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (Washington Administrative Code [WAC] 173- 26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The goals and policies of Tekoa's SMP, approved under chapter 90.58 RCW, create a framework for the regulations of the SMP. They provide guidelines for future decision making and future development of lands within the City's SMP jurisdiction boundaries.

All regulatory elements of this SMP, including, but not limited to, definitions and use regulations, are considered a part of the City's development regulations.

## B. Shoreline Jurisdiction

In accordance with state laws and rules, the jurisdiction of the City of Tekoa's SMP encompasses Latah Creek, land within 200 feet of the ordinary high water mark (OHWM), any floodway, contiguous 100-year floodplain extending up to 200 feet inland of a floodway, and any associated wetlands.

## C. Applicability and Exemptions

The SMP applies to all proposed uses and development occurring within shoreline jurisdiction. This SMP does not apply to certain activities that do not alter structures or properties, such as interior building changes or routine gardening. It also does not apply to legally established uses already on the land such as existing agriculture, existing residences, and other existing uses, structures, and activities. See Section 1.5 for a complete description of SMP applicability.

There are also activities that are exempt from the Shoreline Substantial Development Permit system. These activities are subject to the standards of the SMP but are not required to submit fees and other materials associated with Shoreline Substantial Development Permits. Common exemptions include, but are not limited to:

- Normal maintenance or repair of existing structures or developments
- Bulkheads common to single-family residences
- Emergency construction necessary to protect property from damage
- Construction and practices normal or necessary for farming, irrigation, and ranching activities including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures
- Construction of a single-family residence

Exemptions are fully described and listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, as amended. See Section 7.6 for additional information on exemptions.

### D. How to Read and Apply this SMP

When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the SMP Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this SMP and the Act.



In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations. Additional definitions are located in Appendix A.

For informational purposes, the flow chart below (Figure RG-1) illustrates how an applicant could navigate the regulations to determine if and how they apply to a particular project and property. In addition to approval from the City of Tekoa, any shoreline development or construction project may also require a permit or approval from the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and/or the Washington Department of Natural Resources, among others.

## E. Document Organization

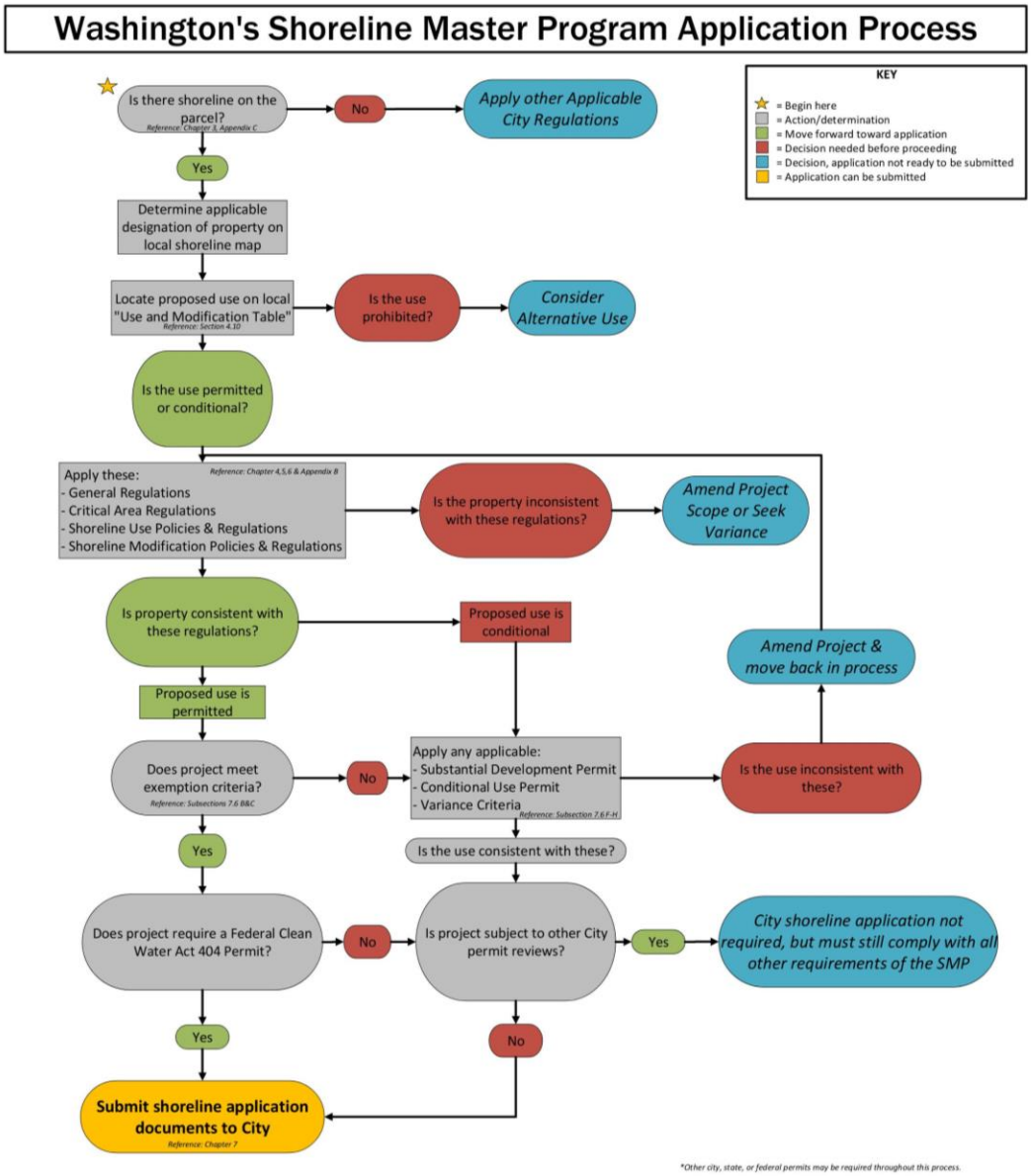
The SMP establishes long-term planning goals and policies, specific development standards and use regulations, and permitting and administrative procedures. As such, the SMP is linked to other City planning documents such as the Tekoa Municipal Code (TMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.
- Chapter 6. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.



- Chapter 7. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.
- Appendix A. Definitions: provides definitions for terms used throughout the SMP.
- Appendix B. Shoreline Critical Area Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.
- Appendix C. Shoreline Environment Designations Map.

Figure RG-1. Shoreline Application Process Flow Chart.



# 1. Introduction

## 1.1 TITLE

This document shall be known and may be cited as the City of Tekoa Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 1.2 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 1.3 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

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

## 1.4 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparation of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural community.

The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP that are approved under RCW 90.58 shall be considered an element of the City's comprehensive

planning, and all regulatory elements of this SMP shall be considered a part of the City's development regulations.

After the City's local development and adoption process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the City and approved by Ecology.

## 1.5 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection (C), all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.2 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Appendix A (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.
2. Interior building improvements that do not change the use or occupancy;
3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
5. As of the effective date of the SMP legal pre-existing residential uses and structures where no change or new activity is proposed.
~~5.~~6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 7.6(B) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply City-wide to all nonfederal uses, activities, and development.

F. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

G. This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 have been met.

H. A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a

determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

## 1.6 LIBERAL CONSTRUCTION

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

## 1.7 SEVERABILITY

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

## 1.8 EFFECTIVE DATE

The SMP is hereby adopted on the 19th Day of October, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

# 2. Shoreline Vision and Goals

## 2.1 SHORELINE VISION

It shall be the ultimate goal of the City of Tekoa SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the City of Tekoa regarding the balanced use of the City's shoreline.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

## 2.2 SHORELINE GOALS

A. Shoreline Use

1. Promote the best use of City shorelines through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shoreline.
2. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the City as well as the shoreline environments, habitat, and ecological systems.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the City's shoreline. Shoreline economic growth and prosperity should take into account the existing rural character of the City.
2. Permit those agricultural, commercial, industrial, recreational, and other developments that require a location along the shoreline and which may contribute to the economic well-being of the City while achieving no net loss of ecological function.
3. Recognize the rural character of the City of Tekoa and the continued importance of agriculture to the City's economy.
4. Manage economic development of water-dependent, water-related and water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the City's shoreline.
2. Ensure an adequate supply of safe public access to the City's shoreline.
3. Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

D. Recreation

1. Protect and expand opportunities for recreation in the City's shoreline areas, including but not limited to parks and other recreational areas.
2. Encourage and maximize water-oriented recreational opportunities along the shoreline.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.
2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.
3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the City's shoreline.
2. Maintain adequate safety, environmental, and aesthetic standards for existing and new transportation systems within shoreline jurisdiction.
3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.
2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

Identify, preserve, protect and rehabilitate buildings, structures, sites, districts, objects, and landscapes of the shoreline that have historic, cultural, archeological, scientific, or educational value.

I. Flood Hazard Management

Protect the City from losses and damage created by flooding along the shoreline.

# 3. Shoreline Jurisdiction and Environment Designations

## 3.1 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. In the City of Tekoa, the only designated shoreline waterbody is Latah Creek.

2. Shorelands, as adopted by the City of Tekoa and indicated on the Official Shoreline Map, and available for review at Tekoa City Hall, are defined as:

   *"those lands extending landward for 200 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…." (RCW 90.58.030)*

   The City will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Map available for review at Tekoa City Hall and in Appendix C. The purpose of the Official Shoreline Map is to identify Environment Designations (Section 3.2 below). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

   *"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

*In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state….*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

   a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
   b. Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.
   c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
   d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
   e. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

## 3.2 SHORELINE ENVIRONMENT DESIGNATIONS

A. Urban Conservancy

1. Purpose: The Urban Conservancy environment is intended to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

2. Designation Criteria: Specific criteria for designation of the Urban Conservancy environment include areas or properties that:

   a. Lie in the City limits;
   b. Are planned for development that is compatible with the principals of maintaining or restoring the ecological functions of the area;

c. Are suitable for water-enjoyment uses;
d. Are open space or floodplains; or
e. Are areas that retain important ecological functions which should not be more intensively developed.

3. Management Policies:

a. Allowed uses for the Urban Conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
b. Water-oriented uses should be given priority over nonwater-oriented uses..
c. Development in the Urban Conservancy environment should only be allowed if it would not result in a net loss of shoreline ecological functions, and if significant ecological impacts can be mitigated.
d. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

B. Shoreline Residential

1. Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

3. Management Policies:

a. Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

b. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
c. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
d. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

C. Shoreline Parks

1. Purpose: The purpose of the Shoreline Parks environment is to:

a. protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and
b. Ensure appropriate management and development of existing and future public parks and recreation areas.

2. Designation Criteria: Assign a Shoreline Parks environment designation if any of the following characteristics apply:

a. They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;
b. They are suitable for water-related or water-enjoyment uses;
c. They are open space, floodplain or other sensitive areas that should not be more

intensively developed;

d. They have potential for ecological restoration;

e. They retain important ecological functions, even though partially developed; or

f. They have the potential for development that is compatible with ecological restoration.

3. Management Policies:

a. Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a non-permanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

b. Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.

c. Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.

d. Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

e. Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.

f. Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.

g. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

D. High Intensity

1. Purpose: The purpose of the High Intensity environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria: Assign a High Intensity environment designation to shoreline areas within incorporated municipalities if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity uses.

3. Management Policies

a. Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

b. When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

c. New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental

cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d. Where feasible, visual and physical public access should be required as part of development in the High Intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

E. Aquatic

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

2. Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management Policies:

a. Allow new over-water structures only for water-dependent uses, including public access or ecological restoration.

b. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

d. All developments and uses should be located and designed to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

e. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

F. Environment Designation Interpretation

1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Map shall prevail consistent with the following rules:

a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.

c. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.

d. Boundaries indicated as approximately parallel to or extensions of features indicated in (a), (b), or (c) above shall be so construed.

2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and

correct the map. Appeals of such interpretations may be filed pursuant to Chapter 7 (Administration and Permitting) and the City's appeal procedures in TMC 4.16.040 (Amendments). If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

3. All shoreline areas waterward of the OHWM shall be designated Aquatic.

4. Shoreline areas upland of the OHWM shall be designated either Urban Conservancy, Shoreline Residential, Shoreline Parks, or High Intensity.

G. Official Shoreline Map and Unmapped or Undesignated Shorelines

1. The Official Shoreline Map at the time of SMP adoption, which illustrates the delineation of shoreline jurisdiction and environment designations in the City, is available for review at Tekoa City Hall and is included in Appendix C. The Official Shoreline Map shall include the following language: "We hereby certify that this map constitutes the Official Shoreline Map as approved by Ordinance 823 of the City Council and signed by its chair dated this 19th of October, 2015." The Official Shoreline Map may be updated administratively or through an SMP amendment as indicated in Subsections (G)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Map when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Map without an SMP amendment.

3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

5. In addition, any property shown in shoreline jurisdiction that does not meet the criteria for shoreline jurisdiction (e.g., is more than 200 feet from the OHWM or floodway, is no longer in floodplain as documented by a Letter of Map Revision from FEMA, and does not contain associated wetlands) shall not be subject to the requirements of this SMP. Revisions to the Official Shoreline Maps may be made as outlined in this Subsection (G)(5) without an SMP amendment.

# 4. General Policies and Regulations

## 4.1 INTRODUCTION

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

## 4.2 SHORELINE USE AND DEVELOPMENT REGULATIONS

A. Policies

1. Protect current agricultural uses on agricultural land and provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.
2. Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.
1. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.
2. Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.
3. The design, density and location of all allowed uses and developments should reflect physical and natural features of the shoreline and should assure no net loss of ecological functions by avoiding and minimizing adverse effects on shoreline ecology.
4. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.
5. Recognize the importance of the City's wastewater treatment plant and accommodate maintenance and upgrades when needed.

B. Regulations

1. All uses in the shoreline shall comply with Tekoa's Municipal Code and this Program.
2. The shoreline use table defines those uses that are permitted, conditional, or prohibited. All unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.
3. All structures in the shoreline shall be designed and constructed consistent with the underlying zoning and shall not exceed 35 feet above average grade level, consistent with RCW 90.58.
4. Shoreline developments shall locate the water-oriented portion of their development

along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).

5. Where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

## 4.3 ENVIRONMENTAL PROTECTION

A. Policies

1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the City's environmental resources (air, ground and surface waters, and indigenous biology).

3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of City residents.

B. Regulations

1. Ecological Functions. Uses and developments on City shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

2. Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of SMP Section 19.06.700, Shoreline Critical Areas Policies and Regulations.

3. Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 4.3(B)(4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 4.3(B)(4):

   a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or

   b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

   c. When specifically required by regulations contained in this SMP.

4. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 4.3(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

a. Avoid the impact altogether by not taking a certain action or parts of an action;
b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;
d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;
e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments; and
f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

a. Removal of native plant communities in shoreline jurisdiction,
b. Removal of native or non-native trees that overhang the water,
c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,
d. Removal or alteration of priority habitats or habitat for priority species,
e. Construction of new or expanded in- and over-water structures,
f. Construction of new or expanded shoreline stabilizations,
g. New discharges of water into Latah Creek that may introduce pollutants,
h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or
i. Changes in grading or fill that reduce floodplain capacity.

6. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City, but may be voluntarily performed by an applicant. In addition to any requirements found in Appendix B (Shoreline Critical Areas Policies and Regulations) a mitigation plan must include:

a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;
b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;
c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;
d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;
e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;
f. A contingency plan if mitigation fails to meet established success criteria; and
g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

7. Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

## 4.4 SHORELINE VEGETATION CONSERVATION

A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Appendix B (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Section 5 (Fish and Wildlife Habitat Conservation Areas) of Appendix B.

3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 4.3 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Tekoa Municipal Code.

4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Tekoa Municipal Code. Mitigation sequencing per Subsection 4.3(B)(4) (Environmental Protection) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.

5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions

that may result in adverse impacts include:

a. Removal of native trees, shrubs or groundcovers;
b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes; or
c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Spokane Conservation District, and must contain information required in Subsection 4.3(B)(6). All mitigation plantings shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

7. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

8. Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

9. Invasive species control.

   a. Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.
      i. Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.
      ii. Coordination with the Spokane Conservation District is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.
      iii. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.
      iv. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.
   b. Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

## 4.5 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

A. Policies

1. Maintain and improve the water quality and quantity of the City's shorelines and preserve surface and groundwater for the beneficial use of the City's citizens and wildlife

over the long term.

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

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

B. Regulations

1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions.

2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

3. Requirements for new development.

   a. New development, use or activity shall utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff to protect the quality and quantity of surface and ground water. Such measures may include, but are not limited to, catch basins or settling ponds, installation and required maintenance of oil/water separators, biofiltration swales, interceptor drains and landscaped buffers.

   b. The release of oil, chemicals, fertilizers or hazardous materials onto land or into the water is prohibited within the shoreline jurisdiction.

4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.

6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

## 4.6 FLOOD HAZARD MANAGEMENT

A. Policies

1. Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

2. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result

of the development.

3. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

1. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 4.3 (Environmental Protection) and Section 7 (Frequently Flooded Areas) of Appendix B, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Map is available for review at Tekoa City Hall. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

3. The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 7 (Frequently Flooded Areas) of Appendix B:

   a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

   b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

   c. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

   d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs[1]. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

   e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

   f. Water-dependent installations which by their very nature must be in the floodway.

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

   h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

   i. Uses and developments allowed in the floodway under Section 7 (Frequently Flooded

Areas) of Appendix B, provided they are otherwise consistent with all provisions of this SMP.

[1] For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]

4. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

6. New public and private structural flood hazard reduction measures:

   a. Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

      i. That they are necessary to protect existing development;

      ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

      iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

      iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

      v. That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

      vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

   b. Shall be consistent with an approved comprehensive flood hazard management plan.

   c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing City-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly

prohibited by the approving flood hazard agency.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 6.3 (Dredging and Dredge Material Disposal) and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## 4.7 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

A. Policies

1. Protect archaeological, historic, and cultural resources.

2. Due to the limited and irreplaceable nature, destruction of or damage to any site, building, structure, district, object of landscape having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

B. Regulations

1. Permits issued in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:

   a. If any of the following are met, the project will be exempt from taking action:

      i. Prior negative archaeological survey is on file

      ii. No ground disturbance will occur

      iii. The project is in 100 percent culturally-sterile fill

   b. If no known cultural resources are present, the Department of Archaeology and Historic Preservation Predictive Model shall be applied and the survey recommendations shall be followed according to the associated risk identified.

   c. If cultural resources are present and ground-disturbance is proposed, then a site inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes and the Department of Archaeology and Historic Preservation (DAHP) prior to initiating disturbance. The resource shall be avoided or a mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant. A permit from DAHP may be required under RCW 27.53.

2. In accordance with state law:

   a. In the event that human remains, burials, funery items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.

   b. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53.060 shall be adhered to.

## 4.8 PUBLIC ACCESS

A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in

public trust by the state while protecting private property rights and public safety.

2. Recognize that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.
3. Consistent with the overall best interest of the state and the people of the City of Tekoa, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views.
4. Regulate the design, construction, and operation of permitted uses in the City's shoreline jurisdiction to reduce interference with the public's use of the water.
5. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals.

B. Regulations

1. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.
2. In compliance with RCW 36.87.130, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.
3. Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.
4. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:
    a. The development is proposed by a public entity or on public lands;
    b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;
    c. The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or
    d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.
5. An applicant shall not be required to provide public access where the City determines that one or more of the following conditions apply:
    a. Proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings or subdivision of four or fewer lots;
    b. The proposed use, activity or development only involves agricultural activities;
    c. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;
    d. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

e. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

f. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

g. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

6. Public access locations shall be clearly marked and available to the public.

7. The City may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

8. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

9. The City shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

10. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

## 4.9 UNCLASSIFIED USES

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 7.6(G) of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

## 4.10 SHORELINE USE AND MODIFICATION TABLE

All uses and developments in the City's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

**Table 4.10-1 Use and Modification Table**

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| **Agriculture (Section 5.1)** | | | | | |
| Existing Agricultural Activities | Not regulated under this SMP | | | | |
| New Agricultural Activities | P | P | P | P | N/A |
| Agricultural Related Activities | C | C | X | P | N/A |
| **Aquaculture (Section 5.2)** | | | | | |
| Commercial | X | X | X | X | X |

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| Non-commercial | P | P | P | P | P |
| **Boating Facilities (Section 5.3)** | | | | | |
| In- and Over-water Structures | X | X | X | X | X |
| Soft Launch | P | P | P | P | P |
| **Breakwaters, Jetties, Weirs and Groins (Section 6.2)** | | | | | |
| To protect or restore ecological functions | P | P | P | P | P |
| All other purposes | C | C | C | C | C |
| **Commercial Development (Section 5.4)** | | | | | |
| Visitor-serving uses | C | C | C | P | C |
| Recreation concessions | P | P | P | P | P |
| Other retail, trade or service | | | | | |
| General | X | C | C | C | C |
| Separated from Shoreline[2] | P | C | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | P | C | P | P | P |
| **Dredging and Dredge Material Disposal (Section 6.3)** | | | | | |
| Dredging | N/A | N/A | N/A | N/A | P |
| Dredge Material Disposal | C | C | C | P[3] | X |
| **Fill and Excavation (Section 6.4)** | | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | P | N/A |
| **Flood Hazard Management (Section 4.6)** | | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P | P |
| New Facilities | C | P | C | P | See adjacent upland designation |
| **Forest Practices** | | | | | |
| Forest Practices | X | X | X | X | N/A |
| **Industrial Development (Section 5.6)** | | | | | |
| Water-Oriented | X | X | X | P | P |
| Nonwater-Oriented | | | | | |
| General | X | X | X | C | X |
| Separated from Shoreline[2] | X | X | X | P | N/A |

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| Mixed-use project that includes a Water-Dependent Use | X | X | X | P | P |
| **In-Stream Structures (Section 5.5)** | | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; or to support agriculture | P | P | P | P | P |
| Other | C | C | C | P | See adjacent upland designation |
| **Mining** | | | | | |
| Mining | X | X | X | X | X |
| **Recreational Development (Section 5.7)** | | | | | |
| Water-Oriented | P | P | P | P | P |
| Nonwater-Oriented | | | | | |
| General | C | C | C | C | X |
| Separated from Shoreline[2] | P | P | P | P | N/A |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P | P |
| **Redevelopment, Repair, and Maintenance (See Section 5.10)** | | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P | P |
| **Residential Development (Section 5.8)** | | | | | |
| Single-Family Dwelling | P | P | X | X | X |
| Multi-Family Dwelling | C | C | X | P | X |
| **Shoreline Restoration and Enhancement (Section 6.5)** | | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P | P |
| **Shoreline Stabilization (Section 6.6)** | | | | | |
| New Stabilization | P | P | P | P | P |
| **Transportation and Parking (Section 5.9)** | | | | | |
| Expansion of Existing Transportation and Parking | P | P | P | P | P |
| New Access Roads Serving Permitted Uses | P | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | C | C | P | P | N/A |
| New Bridges | C | C | C | P | C |
| New Railways | C | C | C | P | C |
| New Airstrips | X | X | X | X | N/A |

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| New Trails or Pedestrian Bridges | P | P | P | P | P |
| New Parking to Support Authorized Use[4] | P | P | P | P | N/A |
| **Utilities (Section 5.10)** | | | | | |
| Expansion of Existing Utilities | P | P | P | P | C |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | C | C | C | P | C |
| New Power Generating Facilities | C | C | C | P | C |
| New Utility Transmission Lines | P | P | P | P | C |
| New Utility Services, General | P | P | P | P | C |
| New Wastewater Treatment Facility | C | C | C | C | C |

[1] The determination of whether a permitted use requires a Shoreline Substantial Development Permit or is exempt from a permit depends on whether the specific proposal meets the criteria for a shoreline exemption as identified in Subsection 7.6(C) and WAC 173-27-040. This determination is made by the Shoreline Administrator as outlined in Subsection 7.2(A).
[2] Sites "separated from shoreline" are those sites physically separated from the shoreline by another property or public right of way.
[3] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.
[4] Primary parking prohibited in all designations per WAC 126-26-241(3)(k)).

## 4.11 SHORELINE DEVELOPMENT STANDARDS

A. Shoreline developments shall comply with all dimensional requirements of the Tekoa Municipal Code.

B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

C. In accordance with this SMP and the Tekoa Municipal Code, there shall be a 35-foot maximum building height for all structures, except that utility facilities, bridges, and grain storage facilities located in the Industrial District are not required to meet this standard. To exceed 35 feet, an applicant must comply with the following criteria:

   1. Demonstrate overriding considerations of the public interest will be served; and

   2. Demonstrate that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

Water-oriented structures shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, as well as accessory features such as lighting required for operations. All other structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 7.6(H)).

D. Shoreline buffers: See Section 5.D of Appendix B (Shoreline Critical Areas Policies and Regulations).

# 5. Shoreline Use Policies and Regulations

## 5.1 AGRICULTURE

A. Policies

1. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.
2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.
3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.
4. Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

1. Appendix A (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.
2. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.
3. SMP provisions shall apply in the following cases:
    a. new agricultural activities on land not meeting the definition of agricultural land;
    b. expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
    c. conversion of agricultural lands to other uses;
    d. other development on agricultural land that does not meet the definition of agricultural activities; and
    e. agricultural development and uses not specifically exempted by the SMA.
4. Feed lots and stockyards are prohibited in shoreline jurisdiction.
5. In new cultivated areas, vegetative buffers consistent with Section 5.D of Appendix B, shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection (B)(3).
6. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

7. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

8. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

## 5.2 AQUACULTURE

A. Policies

1. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with water-dependent uses.

2. Consider visual access and aesthetic quality of the shoreline in siting aquaculture facilities.

B. Regulations

1. Aquacultural facilities must be designed and located to avoid:

   a. The spreading of disease, especially to native aquatic life;
   b. Introducing new non-native species which cause significant ecological impacts;
   c. Significantly conflicting with water-dependent uses;
   d. A net loss of ecological functions; or
   e. Significantly impacting the aesthetic qualities of the shoreline.

2. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, and wind protection. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

3. Aquaculture structures and activities that do not require a waterside location must be located landward of the shoreline management buffers required by this SMP.

4. All Facilities shall comply with the Environmental Protection regulations in Section 4.3.

## 5.3 BOATING FACILITIES

A. Policies

1. Where location is appropriate, give boating facilities priority for shoreline location.

2. Design and construct boating facilities to result in no net loss of ecological functions.

3. Give preference to boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover. In support of this, community structures are encouraged.

4. Ensure new boating facilities are located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible adjacent uses are present. Such facilities should be coordinated with applicable local, state and federal plans and, where feasible, collocated with other compatible water-dependent uses to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.

5. Ensure boating facilities are located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent

land uses; and impacts to public access to the shoreline.

B. Regulations

1. Boat launches for public or non-residential private use may be allowed consistent with this SMP; no other boating facilities (e.g., docks) are allowed in the City of Tekoa.

2. New or expanded boat launch ramps may be approved only if they provide public access to waters that are not adequately served by existing access facilities, if use of existing facilities is documented to exceed the designed capacity, or the ramp is necessary to serve the water-oriented commercial or industrial use.

3. General design standards.

   a. Consistent with requirements for mitigation sequencing, all boat launches must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

   b. Boat launches shall be constructed with materials that do not leach preservatives or other chemicals (including concrete and asphalt). Only clean, un-treated natural materials such as rock or wood may be used.

   c. New public or commercial boat launch facilities must provide adequate restroom facilities.

4. General location regulations. New and expanded boat launches must be located to:

   a. Minimize hazards.

   b. Avoid blocking or obstructing lawfully existing or planned public shoreline access.

   c. Minimize the need for new or maintenance dredging.

   d. Eliminate the need for new shoreline stabilization, if feasible. Where the need for stabilization is unavoidable, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft may be allowed.

   e. Allow for adequate water mixing and flushing and where water depths are adequate to eliminate or minimize the need for dredging or filling.

   f. Minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.

5. General construction regulations.

   a. Construction shall be completed during allowed in-water work windows.

   b. Construction impacts shall be confined to the minimum area needed to complete the project.

   c. The boundaries of clearing limits associated with site access and construction shall be flagged to prevent ground disturbance of riparian vegetation, wetlands, and other sensitive sites. This action shall be completed before any significant alteration of the project area.

   d. All temporary erosion controls shall be in place and appropriately installed downslope of project activities until site restoration is complete.

   e. Any large wood, native vegetation, topsoil, and/or native channel material displaced by construction shall be stockpiled for use during site restoration.

   f. No existing habitat features (i.e., wood, substrate materials) shall be removed from the shoreland or aquatic environment without approval.

   g. If native vegetation is moved, damaged, or destroyed, it shall be replaced with a functionally equivalent native species during site restoration.

6. Replacement of boat launches. If any of the following are proposed during a five-year

period, the project is considered a new boat launch and must comply with applicable standards for new boat launches.

a. Replacement of the entire facility.

b. Replacement of 75 percent or more of a boat launch, by area.

7. Modification or enlargement of boat launches.

a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.

b. Enlarged portions of boat launches must comply with applicable standards for new facilities.

8. Repair of boat launches.

a. Repairs to legally established boat launches are permitted consistent with all other applicable codes and regulations.

b. All repairs must utilize any material standards specified for new facilities.

9. Mitigation.

a. Mitigation proposals must provide impact mitigation at a minimum one-to-one ratio, by area, using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.

b. For all new or expanded boat launches, appropriate mitigation may include one or more of the following measures. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function. Mitigation may not include measures that are already required by regulations.

i. Removal of any legal existing over- or in-water structures that are not the subject of the application.

ii. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.

iii. Removal or ecological improvement of hardened shoreline. Improvement may consist of softening the face and toe of the hardened shoreline with soil, gravel and/or cobbles, and/or incorporating vegetation or large woody debris.

iv. Removal of man-made debris waterward of the OHWM.

v. Placement of large woody material if consistent with local, state and federal regulations.

vi. Participation in an approved mitigation program.

10. Submittal requirements. For all new or expanded boat launches, applicants must provide:

a. An assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.

b. A mitigation plan for unavoidable adverse impacts to ecological functions or processes, if applicable.

c. An assessment of need and demand. At a minimum, the assessment shall include the following:

i. Existing approved facilities, or pending applications, within the service range of the proposed new facility and relevant characteristics of those facilities, such as level of use and condition.

ii. The expected service population and relevant characteristics of the population, including any characteristics that justify specific design elements of the proposed

facility.

iii. An assessment of existing water-dependent uses in the vicinity and potential impacts to those uses, and a description of proposed mitigation measures, if applicable.

## 5.4 COMMERCIAL DEVELOPMENT

A. Policies

1. Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-related and water-enjoyment uses should be prioritized over nonwater-oriented commercial uses.
2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented or over-water uses should be encouraged to locate inland from the shoreline jurisdiction.
3. Encourage new commercial development to locate in areas where commercial development uses already exist.
4. Ensure that new commercial development does not significantly reduce scenic views in shoreline jurisdiction.
5. Attract new commercial development in appropriate locations along the shoreline.

B. Regulations

1. Water-dependent, water-related, and water-enjoyment uses are permitted where allowed by zoning and this SMP.
2. Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses. Water-related uses and water-enjoyment uses shall be given priority over nonwater-oriented uses.
3. Commercial development that is not water-dependent shall not be allowed over water except where it is located within an existing building or where they are accessory to a water-dependent use.
4. Nonwater-oriented commercial development shall be prohibited unless they meet the following criteria:
   a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access or ecological restoration; or
   b. Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access or ecological restoration.
5. In areas of the shoreline designated for commercial uses, nonwater-oriented commercial uses may be allowed on sites physically separated from the shoreline by another property or public right-of-way.
6. New commercial developments shall provide public access and ecological restoration to the shorelines where feasible and shall avoid impacts to existing navigation, recreation, and public access.
7. Commercial development shall comply with the Environmental Protection regulations of

Section 4.3 and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

## 5.5 IN-STREAM STRUCTURAL USES

A. Policies

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

B. Regulations

1. In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
2. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.
3. In-stream structures shall not be a safety hazard.
4. In-stream structures shall be designed by a qualified professional.
5. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to human safety.
6. In-stream structures shall comply with the Environmental Protection regulations in Section 4.3(B) and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (4.3(B)(4)), all structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.
7. The applicant must obtain all other state, local and federal permits required for in-stream structures in addition to the requirements of this SMP.

## 5.6 INDUSTRIAL DEVELOPMENT

A. Policies

1. Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines, local regulations, and other State and County requirements.

B. Regulations

1. Industrial facilities that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.

2. Industrial development shall be in accordance with the following regulations:

   a. Industrial development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

   b. In the review of shoreline developments, the City shall give preference to water-dependent uses and then water-oriented industrial uses, in accordance with WAC 173-26-241(3)(f).

   c. Regional and statewide needs for water-dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.

   d. Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporating public access as mitigation.

   e. Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 4.8(B)(6).

   f. Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

   g. In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

3. In accordance with WAC 173-26-241(3)(f), new nonwater-oriented industrial development shall be prohibited on shorelines except when:

   a. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

   b. Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

## 5.7 RECREATIONAL DEVELOPMENT

A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between City, County and State parks departments.

2. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.

3. Provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions.

2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with City development standards.

3. The location, design, and operation of recreational facilities shall be consistent with the

purpose of the environment designation.

4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park and open space areas and trail access.

5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 5.4 (Commercial Development).

## 5.8 RESIDENTIAL DEVELOPMENT

A. Policies

1. Encourage current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.

2. Residential development in the City should control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological functions and comply with the Environmental Protection regulations of Section 4.3.

3. Residential development should minimize environmental impact through ecological restoration and measures such as low impact development and vegetation conservation and enhancement.

4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

5. Prohibit new floating homes.

B. Regulations

1. New residential lots created through land division shall be in accordance with the following:

   a. Comply with all applicable subdivision and zoning regulations.

   b. Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out of lots.

   c. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

2. Residential development, including accessory uses and appurtenant structures, shall:

   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.

   b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.

   c. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

   d. In accordance with WAC 173-26-241(j), new floating homes shall be prohibited.

3. Residential accessory uses or appurtenances shall not be located in required shoreline

buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use. Accessory uses and structures shall be located landward of the principal residence, unless the structure is or supports a water-dependent use.

4. All new residential developments and subdivisions shall comply with the Shoreline Stabilization regulations in Subsection 6.6(B)(1).

## 5.9 TRANSPORTATION AND PARKING

A. Policies

1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.
2. Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.
3. Promote additional trail connections that are consistent with local and regional plans.
4. Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing proposed shoreline uses that are consistent with this SMP.

B. Regulations

1. Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:
   a. Minimize possible adverse effects on unique or fragile shoreline
   b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.
   c. Set back from the OHWM to the maximum distance feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot be met, or the cost is disproportionate to the cost of the proposal (the shoreline buffer requirement would add more than 20% to the total project cost).
2. Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:
   a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.
   b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.
   c. Observe all regulations regarding critical areas and shoreline buffers.
   d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.
3. Public roads within the shoreline jurisdiction shall, where possible, provide and maintain visual access to scenic vistas, including, but not limited to, turnouts, rest areas, and picnic areas.
4. Shoreline crossings and culverts shall be designed to mitigate impact to riparian and

aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.

5. Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings.

6. Transportation proposals shall be consistent with circulation system plans for roads, railroads, pedestrian, bicycle, and public transportation. The SMP Administrator shall condition transportation proposals to be consistent with applicable county, city, state, or federal plans and construction standards, as appropriate.

7. The provisions of Section 7 (Frequently Flooded Areas) of Appendix B shall be addressed in the design of transportation facilities.

8. Public access standards in Section shall be met.

9. If an applicant proposes to pave a roadway or parking area, the proposal shall comply with applicable water quality, landscaping, stormwater, and other applicable requirements of this SMP and the Tekoa Municipal Code or any locally applicable regulations.

10. When a new or expanded roadway or new or expanded parking facility is proposed, the City may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no net loss of shoreline ecological function, including but not limited to restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline buffers or critical areas and their buffers.

## 5.10 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.

2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.

2. Utility projects within shoreline jurisdiction shall be designed to achieve no-net-loss of shoreline ecological function, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

3. Existing utilities shall not justify more intense development.

4. Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

5. Transmission facilities for the conveyance of services, such as power lines, cables, and

pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

6. Development of pipelines and cables in shoreline jurisdiction, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

## 5.11 REDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

A. Policies

1. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Appendix A (Definitions), unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.

2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.

3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:

   a. The SMP Administrator shall determine the extent of compliance with SMP provisions.

   b. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

# 6. Shoreline Modification Policies and Regulations

## 6.1 GENERAL REQUIREMENTS

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

2. As much as possible, the number and extent of shoreline modifications shall be limited.

3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (See Section 4.3(B)(4)). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

5. Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.

6. All feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur shall be incorporated.

## 6.2 BREAKWATERS, JETTIES, WEIRS, AND GROINS

A. Policies

1. Allow breakwaters, jetties, and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.

B. Regulations

1. New, expanded or replacement structures shall only be allowed if it can be demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific

public purpose.

2. Breakwaters, jetties, and groins shall be limited to the minimum size necessary.
3. Breakwaters, jetties, and groins must be designed to protect critical areas, and shall implement mitigation sequencing to achieve no net loss of ecological functions.
4. Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.
5. Permit requirements and the level of approval required is regulated by Table 4.10-1 in Section 4.10.

## 6.3 DREDGING AND DREDGE MATERIAL DISPOSAL

A. Policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

B. Regulations

1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Section (4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.
2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. Dredging may only be permitted for the following activities:
    a. Development of new or expanded water-dependent industries of economic importance to the region only when there are no feasible alternatives or other alternatives may have a greater ecological impact.
    b. Development of essential public facilities when there are no feasible alternatives.
    c. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
    d. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
    e. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

6. Dredge material disposal within shoreline jurisdiction is only permitted as outlined in Subsection B.5 and under the following conditions:

   a. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and

   b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

7. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:

   a. A description of the purpose of the proposed dredging activities.

   b. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.

   c. A description of proposed dredging operations, including, but not limited to:

      i. The method of removal.

      ii. The length of time required.

      iii. The quantity of material to be initially removed.

      iv. The frequency and quantity of projected maintenance dredging.

   d. A description of proposed dredge material disposal, including, but not limited to:

      i. Size and capacity of disposal site.

      ii. Means of transportation to the disposal site.

      iii. Future use of the site and conformance with land use policies and regulations, if applicable.

   e. Plans for the protection and restoration of the shoreline environment during and after dredging operations.

   f. An assessment of potential impacts to ecological functions or processes from the proposal.

   g. A mitigation plan to address identified impacts, if necessary.

## 6.4 FILL AND EXCAVATION

A. Policies

1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.

2. Encourage fill when it is associated with restoration projects.

B. Regulations

1. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (See Subsection 4.3(B)(4)).

2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be

allowed only when necessary to support one or more of the following:

a. Water-dependent uses.
b. Public access.
c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.
d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.
e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.
f. Ecological restoration or enhancement when consistent with an approved restoration plan.
g. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.
h. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

3. Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

a. Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.
b. Located outside applicable buffers, unless specifically allowed in buffers.

4. All fills, except fills for the purpose of shoreline restoration, must be designed:

a. To be the minimum size necessary to implement the allowed use or modification.
b. To fit the topography so that minimum alterations of natural conditions will be necessary.
c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

## 6.5 SHORELINE RESTORATION AND ENHANCEMENT

A. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, National Marine Fisheries Service, and/or U.S. Fish and Wildlife Service.

2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the City or other entities.

4. Develop application processing guidelines that will streamline the review of restoration-only projects.

5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

B. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.

2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.

3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.

6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

## 6.6 SHORELINE STABILIZATION

A. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.

2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.

3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.

4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.

5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

B. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.
    a. Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.
    b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.
2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.
3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows
    a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.
    b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
        i. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
        ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
        iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.
    c. In support of water-dependent development when all of the conditions below apply:
        i. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.
        ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.
        iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
    d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.
5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts

on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

   a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

   b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

   c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

   d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

   a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

   b. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

   c. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

   d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

   e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

iii. An assessment of alternative measures to shoreline stabilization.

iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

c. For all structural shoreline stabilization measures, including soft structural shoreline

stabilization, detailed construction plans, including, but not limited to, the following:

i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

# 7. Administration and Permitting

## 7.1 GENERAL COMPLIANCE

RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

## 7.2 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

A. SMP Administrator

The City shall designate an SMP Administrator, which shall be the City Clerk or his or her designee. The SMP Administrator or his/her designee is hereby vested with the authority to:

1. Administrate this SMP.
2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.
3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.
4. Make field inspections as needed, and prepare or require reports on shoreline permit applications.
5. Make written recommendations to the Mayor and City Council as appropriate. The SMP Administrator shall make recommendations to City Council regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the City Council.
6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.
7. Determine and collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be established by resolution of the City Council.
8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA Official

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Tekoa Municipal Code.

C. Planning Commission/City Council

1. The Planning Commission or City Council is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.
2. The City Council is authorized to:
   a. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.
   b. Decide on appeals of administrative decisions issued by the Administrator of this SMP.

c. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

d. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

## 7.3 ADMINISTRATION

A. This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

B. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the Tekoa Municipal Code 4.16.050 (Administration & Enforcement) and Section 7.6 of this SMP (Shoreline Permits and Exemptions).

C. Shoreline Variances shall be processed in the same manner as variance from the City's zoning code and shall be subject to all applicable provisions of Tekoa Municipal Code 4.16.050 (Administration & Enforcement) and Section 7.6 of this SMP (Shoreline Permits and Exemptions).

D. Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).

E. The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

## 7.4 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The City of Tekoa and/or Ecology is authorized to enforce the provisions of this Master Program, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. When enforcement is undertaken by the City, this Program shall also be enforced by the means and procedures set forth in the Tekoa Municipal Code.

## 7.5 SHORELINE ACTIVITY TRACKING

A. Tracking

The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring

6. Net change in linear feet of flood hazard structures

7. Net changes in vegetation (area, character)

B. No Net Loss Report

Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the City's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Shoreline Analysis Report, changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

## 7.6 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the City. At a minimum, the City shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Tekoa Municipal Code.

2. Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Exemptions from a Substantial Development Permit - Application and Interpretation

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

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

4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

5. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

1. The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter or Statement of Exemption, as provided for in Subsections (B) and (D) of this Section.

2. Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147

3. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:
   a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
   b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
   c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
   d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
   e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.
4. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

D. Letter or Statement of Exemption

1. Letters of Exemption.

   a. A required Letter of Exemption shall be issued by the City when a development application is determined to meet the listed criteria for an exemption and the development is required to obtain a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).
   b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

2. Statement of Exemption.

   a. The City may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.
   b. Statements of Exemption shall be obtained by applicants whose projects meet any of the exemptions listed in Subsection 18.04.306(C), and which may alter or disturb the ground or vegetation. The Statement of Exemption shall be sent to the applicant.

3. Letters and Statements of Exemption may contain conditions and/or mitigating measures



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of approval to achieve consistency and compliance with the provisions of the Program and Act.

E. Permit application submittal requirements

1. Shoreline applications are classified as follows:
   a. Shoreline Substantial Development Permit
   b. Shoreline Conditional Use Permit
   c. Shoreline Variance
   d. Shoreline Exemption
2. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the City.
3. The contents of permit applications must be consistent with WAC 173-27-180 and Tekoa Municipal Code.
4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.
5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.
6. At the time of application, the applicant must pay the application fee.

F. Shoreline Substantial Development Permit

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 7.6(B) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 1.5 (Applicability).
2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:
   a. The policies and procedures of the SMA;
   b. The provisions of WAC 173-27; and
   c. This SMP.
3. The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.
4. Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the City Council and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and the Tekoa Municipal Code Chapter 4.16.060(a) (Conditional Use Permit).

2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates all of the following:

   a. That the proposed use is consistent with the policies of RCW 90.58.020 and this SMP;

   b. That the proposed use will not interfere with the normal public use of public shorelines;

   c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP;

   d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

   e. That the public interest suffers no substantial detrimental effect.

5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Tekoa Municipal Code Chapter 4.16.060 (Variances).

2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

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

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

   c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP, and will not cause adverse impacts to the shoreline environment;

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

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

f. That the public interest will suffer no substantial detrimental effect.

4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property;

b. That the proposal is consistent with the criteria established under Subsection (3)(b) through (3)(f); and

c. That the public rights of navigation and use of the shorelines will not be adversely affected.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the City to Ecology upon a final decision by the City consistent with WAC 173-27-130 (Filing with department), and then processed by Ecology consistent with WAC 173-27-190 (Permits for substantial development, conditional use, or variance) and WAC 173-27-200 (Department review of conditional use and variance permits).

J. Time Limits

Construction and activities authorized by a Shoreline Substantial Development Permit are subject to the time limitations of WAC 173-27-090.

1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

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K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

## 7.7 NON-CONFORMING USES, STRUCTURES, LOTS

A. Defined

Non-conforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all other applicable City regulations.

B. Non-conforming Uses

1. Any use which existed prior to adoption of this Master Program or applicability of this

Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.

2. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

3. If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.

4. In accordance with Tekoa Municipal Code 4.16.140(4), when a non-conforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.

~~B.~~C. Non-conforming ~~Uses and~~ Structures

1. ~~Lots, structures, and uses that~~Structures that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this Program. ~~A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.~~

~~2. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.~~

~~3. If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.~~

~~4. In accordance with Tekoa Municipal Code 4.16.140(4), when a non-conforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.~~

~~C.~~D. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment and all uses of the non-conforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

~~D.~~E. Alteration, Expansion, or Restoration of Non-conforming Uses and Structures.

1. Alteration, expansion, or restoration of non-conforming structures and uses are not allowed except as set forth in this Master Program and in Tekoa Municipal Code 4.16.140(1). Nonconforming buildings, structures, or portions thereof may be altered or repaired from normal wear and tear, provided such alteration does not constitute more than 50 percent of the assessed value of the original improvement to the property, or

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contribute to further non-conformity.

2. Any non-conforming structure which is moved any distance must be brought into conformance with this Master Program, the SMA, and the Tekoa Zoning Code.

3. A structure for which a variance has been issued shall be considered a legal non-conforming structure, and the requirements of this Section shall apply as they apply to pre-existing non-conforming structures and uses.

4. Legally existing structures used for a conforming use but which are non-conforming 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 non-conformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

5. Alteration or expansion of a non-conforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

~~E.~~F. Pre-existing Legal Residential Uses. Notwithstanding Subsections (A) to (D) of this Section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Master Program:

1. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following, shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

2. The City shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

3. Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location subject to Tekoa Municipal Code 4.16.140.

4. For purposes of this Section, “appurtenant structures” means garages, sheds, and other legally established structures. “Appurtenant structures” does not include bulkheads and other shoreline modifications or over-water structures.

5. Nothing in this Section shall:

   a. Restrict the ability of this Master Program to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

   b. Affect the application of other federal, state, or City requirements to residential structures.

## 7.8 DEBRIS ACCUMULATION AND OBSTRUCTION

Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, Chapter RCW 90.58 the following activities shall be prohibited in shoreline jurisdiction:

A. Outside Storage.

The outside storage within shoreline jurisdiction of abandoned, discarded or unused objects or

equipment, excluding operational farm-related equipment or material which may remain for a maximum of one year; including but not limited to tires, household furniture, stoves, refrigerators and freezers.

B. Outside Accumulation.

The outside accumulation within shoreline jurisdiction of two or more cubic yards of waste, rubbish or trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded or unused material, unless kept in covered bins or receptacles or specifically authorized as a permitted use.

C. Vehicle and Boats.

The presence of any unattached vehicle or boat parts or six or more abandoned or inoperable vehicles and/or boats that have remained in the same location or on the same contiguously owned property for more than sixty consecutive days, within the shoreline jurisdiction.

D. Acts or Omissions.

An act, or omitting to perform a duty, which act or omission either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;
2. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or
3. In any way renders other persons insecure in life, or in the use of property.

E. Enforcement

The provisions of this Section shall be enforced by the City of Tekoa Law Enforcement and/or other City staff.

## 7.9 AMENDMENT OF SHORELINE MASTER PROGRAM

A. Purpose of Amendment

This SMP carries out the policies of the Shoreline Management Act for the City of Tekoa. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and
2. Assure consistency of this SMP with the City's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date.

This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology’s written notice of final approval.

C. Amendment process.

1. The SMP may be amended annually or more frequently as needed.
2. Future amendments to this SMP may be initiated by any of the following:
   a. City of Tekoa SMP Administrator;
   b. Any person or group with an interest in the proposed amendment;

c. The Planning Commission; and

d. The Tekoa City Council.

3. Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the City. Such applications shall contain information specified in the City's procedures for regulation amendments and information necessary to meet minimum public review procedures.

4. The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

5. Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the City Council, who shall approve or deny the proposed amendment following their open record hearing.

6. Prior to approval, the City shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):

   a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

   b. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and

   c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of June 2014 (the Final Shoreline Analysis Report).

7. After approval or disapproval of a SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.

# Appendix A: Definitions

## A

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

**Accessory dwelling unit**. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory structure**. Any structure incidental, appropriate, and subordinate to the main us of the property, and located on the same lot, or in the same building as the main use or part of the same development.

**Act**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent**. To be nearby and not necessarily abutting.

**Advance mitigation**. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

**Administrator or SMP Administrator**. The City designee charged with the responsibility of administering the City of Tekoa SMP.

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

**Agricultural equipment and agricultural facilities**. Includes, but is not limited to:

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

**Agricultural land**. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to the SMP Guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

**Agricultural related industries**. Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughterhouses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughterhouses or rendering plants.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands**. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Alkali wetlands**. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

**Amendment**. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Applicant**. A person who files an application for permit and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity, or the authorized agent of such a person.

**Approval**. An official action by the City of Tekoa's legislative body agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to this Master Program; or an official action by the Department of Ecology to make an SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture**. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer**. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer, sole source**. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Associated wetlands**. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

**Average grade level**. See "Grade."

## B

**Base flood or 100-year flood**. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the City; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City.

**Best management practices or BMP**s. Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment; minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and provide standards for proper use of chemical herbicides within critical areas.

**Boat launch**. An area that is developed for boating ingress and egress from the water.

**Boating facilities**. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.

**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;

3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

## C

**Channel migration zone or CMZ**. The area along a river within which the channel can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Comprehensive Plan**. The officially adopted document and any amendments or supplements thereto adopted by the City of Tekoa, which sets forth policies and standards for determining the best use of land and other resources of the City.

**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deep-water site, where a wetland did not previously exist. Creation results in a gain in

wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical habitat**. Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

## D

**Dairy**. A farm operation producing milk products for commercial sales.

**Data Maps**. That series of maps maintained by the City or its referenced repository for the purpose of graphically depicting the boundaries of critical areas.

**Developable area**. A site or portion of site that may be utilized as the location of development.

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.
5. Dismantling or removing structures if there is no other associated development or re-development.

**Development permit**. Any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by the City of Tekoa, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are

accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 6.3 (Dredging and Dredge Material Disposal), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

## E

**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Enhancement**. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

**Erosion**. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas containing soils identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard and may experience significant erosion (WAC 365-190-030(5)). Erosion hazard areas also include channel migration zones.

**Excavation**. The mechanical removal of earth materials.

**Exempt**. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline

Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

## F

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

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action.

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

**Federal Emergency Management Agency (FEMA)**. The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

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

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Section 5.A of Appendix B.

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood Insurance Rate Map (FIRM)**. 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**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the Planning Director in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. These beneficial roles are not listed in order of priority.

## G

**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.
3. Rough grade is a stage where grade conforms approximately to an approved plan.
4. Finish grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin**. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also “Weir.”

**Groundwater**. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines**. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

## H

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

**Hard stabilization**. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**High intensity land use**. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, some agricultural practices, and commercial and industrial land uses.

**Houseboat or floating home**. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

**Hydric soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

## I

**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation,

irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-Rill**. Areas subject to sheet wash.

**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

## J

**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

## L

**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic landslide resulting from a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors.

**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

## M

**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**Master Program**. The comprehensive shoreline master program for the City of Tekoa, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. The use of any or all of the following actions that are listed in descending order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;

4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.

## N

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Nonconforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 Tekoa Municipal Code and so long as development conforms to all other requirements of this Master Program and the Act.

**Nonconforming Structure/Development.** A building, structure or land use which was lawfully established, existing and maintained at the effective date of the provisions of this Chapter but which, because of the application of this Chapter to it, is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.

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**Nonconforming Use**. Any use, building and/or structure not in compliance with any one or all of the provisions herein contained, which existed legally at the time of the adoption of this SMP.

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water-enjoyment.

## O

**Off-Site Compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-Site Compensation**. To replace critical areas or ecological functions at or adjacent to the site on

which a critical area or shoreline has been impacted.

**Ordinary high water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

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## P

**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also “Dock.”

**Potable water**. Water that is safe and palatable for human consumption.

**Poultry**. Domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Priority habitat and species (PHS)**. As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(28-29)).

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or City zoning are not considered appropriate and are not allowed.

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

## Q

**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

## R

**Recharge**. The process involved in the absorption and addition of water to groundwater.

**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreation uses**. Public, private, or commercial uses which offer activities, pastimes, and experiences that allow for the refreshment of mind and body.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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

**Residential**. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

## S

**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic Hazard Areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback**. The distance in feet as measured from a lot line to the sill line of a building, or the closest point of a structure to the lot line.

**Shall**. A mandate; the action must be done.

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

**Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

1. Shorelines of statewide significance [not found in the City of Tekoa];
2. 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
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes [not found in the City of Tekoa].

**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**Shorelines of statewide significance**. The following shorelines of the state:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark [not found in the City of Tekoa];
2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer [not found in the City of Tekoa]; and
3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

**Should**. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

**Significant adverse effect/impact.** Any noticeable or measureable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**SMP Administrator**. See "Administrator."

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

**Special flood hazard areas**. The land in the floodplain within an area subject to a one percent (1%) or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern designated by the City due to their population status or their sensitivity to habitat manipulation, or that are game species.

**Species, priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $~~6,416~~8,504, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by City Building Inspector or County Environmental Health and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

**Substantially degrade**. To cause significant ecological impact.

## T

**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

## U

**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

## V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in the City if it were not for the presence of tourists or visitors to the region.

## W

**Water table**. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. 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**. Any water-dependent, water-related, or water-enjoyment use.

**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

1. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
2. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
3. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, or other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Well**. A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

**Wetlands**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

**Wetland, emergent**. A regulated wetland with at least thirty percent (30%) of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.

**Wetland functions**. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

**Wetlands, high quality**. Those wetlands that meet the following criteria: No, or isolated, human alteration of the wetland topography; No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration; Low cover and frequency of exotic plant species; Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance; If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and no known major water quality problems.

**Wetlands, isolated**. Those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

# Appendix B: Shoreline Critical Areas Policies and Regulations

## 1. Policies

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 2. General Regulations

A. Purpose, Intent and Applicability.

1. The purpose of this Chapter is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with State law while allowing for reasonable use of private property. Critical areas regulated by this Appendix B include:
   a. Wetlands as designated in Section 3 of this Appendix B,
   b. Critical aquifer recharge areas as designated in Section 4 of this Appendix B,
   c. Fish and wildlife habitat conservation areas as designated in Section 5 of this Appendix B,
   d. Frequently flooded areas as designated in Section 6 of this Appendix B, and
   e. Geologically hazardous areas as designated in Section 7 of this Appendix B.
2. All areas within the City's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section.
3. By adopting this Appendix B, the City of Tekoa acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property.
4. The Critical Area Overlay Zone consists of that area within 250 feet of designated wetlands and fish and wildlife habitat conservation areas. Critical aquifer recharge areas, geologically hazardous areas (25' buffer), and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within the Critical Area Overlay Zone within shoreline jurisdiction shall be subject to project review as required in this Chapter unless specifically exempted.

B. Data Maps.

1. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at the City Clerk's office.

2. The critical areas data maps are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the SMP Administrator to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable provisions, sections, and chapters of the Tekoa Municipal Code.

3. Interpretation of Data Maps.

   a. The SMP Administrator will interpret data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the City Council.

   b. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this Appendix B. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in Appendix A. All development applications are required to show the boundary(ies) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes, except when allowed in this SMP.

4. Application of Data Maps. The conclusion of the SMP Administrator that a parcel of land or a part of a parcel of land that is the subject of a proposed development application is within the boundary(ies) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the City will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

5. The critical area overlay zone in shoreline jurisdiction consists of that area within 250 feet of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25-foot buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within shoreline jurisdiction and the critical area overlay zone shall be subject to project review as required in this SMP unless specifically exempted.

C. Permitted, Conditional and Prohibited Uses.

Uses allowed outright or by conditional use permit or uses altogether prohibited in the Critical Areas Overlay Zone shall be the same as those listed in the underlying zoning district and in this Master Program.

D. General Regulations

1. Land use or building permits for clearing or development activities within the Critical Areas Overlay Zone, as defined on the data maps (Section 2.B of this Appendix B), shall be subject to review under the provisions of this Section, excepting agricultural activities. As part of this review, the City shall:

   a. Verify the information submitted by the applicant;

   b. Evaluate the project area and vicinity for critical areas;

c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

2. Critical Areas Report.

a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The study report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:

i. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

ii. A copy of the site plan for the development proposal including:

a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;

iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;

v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

vii. An analysis of site development alternatives including a no development alternative;

viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) to avoid, minimize, and mitigate impacts to critical areas;

ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with the mitigation plan requirements in Subsection 4.3(B)(6) of this SMP and Subsection 2.F(4) of Appendix B, including, but not limited to:

a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.

x. A discussion of the performance standards applicable to the critical area and proposed activity;

xi. Any additional information required for the critical area as specified in the corresponding section.

b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

3. The following activities shall be allowed in critical areas and their buffers without a critical areas report, provided they are conducted using best management practices, and at a time and in a manner designed to minimize adverse impacts to the critical area:

   a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

   b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;

   c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tiling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

   d. Education, scientific research and use of nature trails;

   e. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

   f. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;

   g. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

   h. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

   i. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with Washington Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

   j. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

   k. Agricultural Ditch Cleaning and Construction. Historically, agricultural landowners have cleaned out drainages on their property for flood control and cleaning out drain tiles. This practice can continue on existing (prior to December 23, 1985) ditches, but a floodplain evaluation is required if a floodplain is present and a wetland evaluation is required if a wetland (not farmed) is present. Construction of new drainage ditches or the relocation of existing drainage ditches through farmed or non-farmed wetlands requires permitting.

E. Protection of Critical Areas

1. Any action taken pursuant to this Section shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, Subsection 4.3(B)(4) to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

F. Mitigation Requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Section, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the critical area report. The mitigation plan shall include:

   a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

      i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

      ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

      iii. An analysis of the likelihood of success of the compensation project.

   b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

   c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

      i. The proposed construction sequence, timing, and duration;

      ii. Grading and excavation details;

      iii. Erosion and sediment control features;

      iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

v. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Innovative Mitigation

a. The City may encourage, facilitate, and approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

ii. The group demonstrates the organizational and fiscal capability to act cooperatively;

iii. The group demonstrates that long-term management of the habitat area will be provided; and

iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

G. Review Criteria

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. The proposal minimizes the impact on critical areas in accordance with the mitigation sequencing requirements in Subsection 4.3(B)(4);

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

c. The proposal is consistent with the general purposes of this Section and the public interest;

d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.F of Appendix B;

e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and

f. The proposal is consistent with other applicable regulations and standards.

2. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Section.

3. Except as provided for by this Section, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) shall be denied.

H. Unauthorized Critical Area Alterations and Enforcement

Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 (Enforcement, Violations, and Penalties) and the following:

1. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

2. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 4 below. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

3. Minimum Performance Standards for Restoration

a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

i. The historic structural and functional values shall be restored, including water quality and habitat functions;

ii. The historic soil types and configuration shall be replicated;

iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

iv. Information demonstrating compliance with the mitigation plan requirements in Section 2.F of Appendix B shall be submitted to the SMP Administrator.

b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

4. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section consistent with Section 7.4 (Enforcement, Violations, and Penalties). The civil penalty shall be assessed by the amount set forth in applicable City regulations.

I. If a development permit is sought for critical area property that is located partly in the City's shoreline jurisdiction, and partly in unincorporated Whitman County's shoreline jurisdiction, the SMP Administrator or designee shall coordinate the City's review of the project with the appropriate County officials.

## 3. Wetlands

A. Delineation.

The existence of a wetland and the location of its boundary (as designated in the National Wetlands Inventory) shall be determined by the applicant through the performance of a field investigation in accordance with WAC 173-22-035 as amended.

B. Wetland Rating.

1. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met:

2. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this Chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications.

a. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

b. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

c. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

d. Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands should be able to be replaced, and in some cases be able to be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

C. Standard Wetland Buffer Widths.

The standard buffer widths in Table B.3-1 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.

1. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-1 below.

2. The use of the standard buffer widths requires the implementation of the measures in Table B.3-2, where applicable, to minimize the impacts of the adjacent land uses.

3. If an applicant chooses not to apply the mitigation measures in Table B.3-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

4. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.

   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

**Table B.3-1 Wetland Buffer Requirements**

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category I: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category I: Bogs and Wetlands of High Conservation Value | 190 ft | | | |
| Category I: Alkali | 150 ft | | | |
| Category II: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category II: Vernal pool | 150 ft | | | |
| Category II: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category III (all) | 60 ft | Add 30 ft | Add 60 ft | Add 140 ft |
| Category IV (all) | 40 ft | | | |

**Table B.3-2. Required measures to minimize impacts to wetlands**

(Measures are required, where applicable to a specific proposal)

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | Use best management practices to control dust |

D. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably

related to protection of the functions and values of the wetland, and that at least one of the following applies:

1. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
2. The wetlands are used by species proposed or listed by the federal government or the State as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or
4. The adjacent land has minimal vegetative cover or slopes greater than 25%.

E. Buffer Averaging.

Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.
2. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
3. The total area of the buffer after averaging is equal to the area required without averaging.
4. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

F. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

G. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

H. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of monitoring period.

I. Allowed Buffer Uses.

In addition to the uses listed in Subsection 1.2(D)(3), the following additional uses may be allowed within a wetland buffer in accordance with the review procedures of this Master Program, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:
    a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.
    b. Wildlife-viewing structures.
2. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
3. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.
4. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:
    a. No other location is feasible; and
    b. The location of such facilities will not degrade the functions or values of the wetland; and
    c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.
5. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.
6. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be

constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

J. Compensatory Mitigation.

1. Compliance with State and Federal Standards. Projects that propose compensation for wetland acreage and/or functions are subject to State and/or Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Section 2.F of this Appendix B and Subsection 4.3(B)(6) of the SMP, as well as *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1* (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended), and *Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington)* (Publication #10-06-07, November 2010).

2. Wetland Mitigation Ratios. Wetland mitigation ratios shall be consistent with Table B.3-3.

**Table B.3-3. Wetland Mitigation Ratios**

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Wetlands of High Conservation Value | Not considered possible | Case by case | Case by case |
| Category I: Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

3. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-3, the Planning Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

4. Buffer Mitigation Ratio. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

5. Wetland Mitigation Banks.

a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,

ii. The Planning Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and

iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

## 4. Critical Aquifer Recharge Areas.

A. Septic Requirements.

In areas within shoreline designation designated as high susceptibility for aquifer contamination, all uses shall be connected to the City's sewer system, except new uses on a septic system in the aquifer protection areas may be allowed with approval of the City Council.

B. Disclosure Form.

For uses within shoreline jurisdiction locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

C. General Standards.

1. Impervious surfaces shall be minimized within the critical aquifer recharge area.

2. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction, to ensure that potential contaminants do not reach the aquifer.

3. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the City and local fire district.

## 5. Fish and Wildlife Habitat Conservation Areas.

A. Designation.

1. All areas within the shoreline jurisdiction of the City of Tekoa meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical

areas and are subject to the provisions of this Section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include the following:

a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.
    i. Federally designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.
    ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the state Department of Fish and Wildlife, and those native plant species identified by the Department of Natural Resources, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.
b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.
c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, such as high quality native plant communities, and those with historical or cultural importance.
d. Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.
e. Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.
f. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

g. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the state Department of Natural Resources.

h. Land Essential for Preserving Connections between Habitat Blocks and Open Spaces.

The SMP Administrator shall be responsible for making final fish and wildlife habitat conservation area designations in shoreline jurisdiction within the City.

2. Mapping. The approximate location and extent of habitat conservation areas are shown on the following maps, which are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

a. Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Resident salmonid distribution maps contained in studies conducted by the local watershed planning unit or in the Habitat Limiting Factors Reports published by the Washington Conservation Commission; and

c. Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps.

These maps are to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

B. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements (Subsection 2.D(2) of this Appendix B), the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;

2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

a. The project area of the proposed activity;

b. All habitat conservation areas and recommended buffers within 200 feet of the project area; and

c. All shoreline areas, floodplains, and other critical areas, and related buffers within 200 feet of the project area.

3. Habitat Assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:

a. A detailed description of vegetation on and adjacent to the project area;

b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

c. A discussion of any federal, state, or local special 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 the project area;

d. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current

proposed land use activity and to be conducted in accordance with Section 2.F of this Appendix B; and

e. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional Information. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the critical area report to include:

a. An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

b. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

5. Waiver. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

C. General Requirements Pertaining to Habitat Conservation Areas.

1. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may be altered only if the proposed activity, including associated mitigation measures, does not degrade the quantitative and qualitative functions and values of the habitat and other critical areas.

2. Non-indigenous Species Shall Not Be Introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a local, state, or federal permit or approval.

3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

a. Establishment of buffer zones;

b. Preservation of critically important vegetation;

c. Limitation of access to the habitat area, including fencing to deter unauthorized access;

d. Seasonal restriction of construction activities;

e. Establishment of a duration and timetable for periodic review of mitigation activities; and

f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Approvals shall be supported by the most current, accurate, and complete scientific and technical information available. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

7. Buffers.

   a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.D(3) below.

   b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

   c. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

      i. It will not reduce habitat functions;

      ii. It will provide additional natural resource protection, such as buffer enhancement;

      iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

      iv. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

   d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

8. Signs and Fencing of Habitat Conservation Areas.

   a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

   b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the SMP Administrator:

*"Habitat Conservation Area*
*Do Not Disturb*
*Contact City of Tekoa Regarding Uses and Restrictions"*

c. Fencing.

i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.

ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

9. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

i. Is located outside of the habitat conservation area and its buffer; and

ii. Meets the minimum lot size requirements of the City's zoning code (Chapter 4.16 TMC).

c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

D. Development Standards for Specific Species or Habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the SMP Administrator. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and the appropriate federal agency.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet, or within one-quarter mile (1,320 feet) and in a shoreline foraging area. The SMP Administrator shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the U.S. Fish and Wildlife Service.

2. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland standards set forth in Section 3 (Wetlands) of this Appendix B, in addition to meeting the habitat conservation area standards in this Section.

3. Streams.

   a. Activities Shall Not Degrade the Functions and Values of Streams. Unless otherwise allowed in this SMP, all structures and activities shall be located outside of the stream and stream buffer. A proposed activity may only be permitted in a stream or stream buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the riparian habitat area and other critical areas.

   b. Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:

      i. Type S- Type S waters are shorelines of the state

      ii. Type F- Type F waters are perennial or seasonal, fish-bearing waters

      iii. Type Np- Type Np waters are nonfish-bearing perennial waters

      iv. Type Ns- Type Ns waters are nonfish-bearing seasonal waters

   c. Standard Stream Buffers.

      i. Standard stream buffer widths are shown in Table B.5-1. A stream shall have the required buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(d) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(e) of this Appendix B.

      ii. Any tributaries of Latah Creek shall have a 50-foot standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(d) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(e) of this Appendix B.

      iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

      iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer that applies in the landward designation is that buffer which is specified for that designation and which is measured from the ordinary high water mark.

**Table B.5-1 Standard Stream Buffers**

| Environment Designation | Shoreline Waters[1] (Type S) |
|---|---|
| All Designations | For water-dependent developments, no buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| Urban Conservancy | The lesser of 100 feet or the waterward edge of an improved public road |
| Shoreline Residential | 60 feet or the waterward edge of an improved public road |
| Shoreline Parks | Waterward edge of Golf Course Road |
| High Intensity | 30 feet |

[1] Shoreline (Type S) stream buffers are based on existing conditions in each environment designation

d. Increased Stream Buffer Width. The recommended buffer width shall be increased, as follows:
   i. When the SMP Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or
   ii. When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

e. Buffer width averaging. The SMP Administrator may allow the buffer width to be reduced in accordance with a critical area report only if:
   i. The width reduction will not reduce stream functions, including those of non-fish habitat;
   ii. The width reduction will not degrade the habitat, including habitat for anadromous fish;
   iii. The proposal will provide additional habitat protection;
   iv. The total buffer area of each stream on the development proposal site is not decreased;
   v. The buffer width is not reduced by more than 25% in any one location;
   vi. The buffer width reduction will not be located within another critical area or associated buffer; and
   vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

f. Stream and Buffer Mitigation. Mitigation of adverse impacts to streams and buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

g. Alternative Mitigation for Streams and Stream Buffers. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

h. Uses and modifications allowed in stream buffers. The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.
   i. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced shoreline buffer unless at least one of the following is met:
      a) Proximity of the proposed accessory to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility;
      b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established and the accessory would not conflict with or limit opportunities for other water-oriented uses;
      c) The accessory use, development or activity can be located upland of the water-dependent use; or
      d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

ii. Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures are allowed in shoreline buffers provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and Appendix B (Shoreline Critical Areas Policies and Regulations). The City may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

iii. Balconies and other viewing platforms. Second-floor balconies or other building projections that provide a river view and limit impervious surface to the footings may encroach into the buffer. Vegetation alteration must be minimized and mitigated.

iv. In the Shoreline Residential environment designation, new minor structures, such as play structures, picnic tables and benches, and sheds, may be located in an already-altered area of a buffer provided all of the following criteria are met:

a) The maximum total footprint is not more than two hundred (200) square feet;

b) The structure is located outside of wetlands, streams, other ecologically sensitive areas, and their associated buffers;

c) Trees or any native vegetation are not removed or adversely impacted by the structure; and

d) The structure does not require a permanent foundation.

v. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

vi. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the waterbody consistent with regulations in this Section. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the water should take the most direct route feasible consistent with appropriate safety standards.

## 6. Frequently Flooded Areas.

Applicants for development within frequently flooded areas shall comply with provisions of the City's flood damage prevention ordinance.

## 7. Geologically Hazardous Areas.

A. Buffers.

1. Standard buffer. A minimum 25-foot buffer shall be established from the top, toe or sides of an identified geological hazard in shoreline jurisdiction (as identified by the U.S. Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40 percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety and welfare, based on information contained in the geotechnical report prepared by a qualified professional engineer.

2. Reduced buffer. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

   a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.

   b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

   c. The proposal mitigates all impacts identified in the geotechnical report.

B. Allowed activities.

The following activities are allowed in seismic and mine hazard areas:

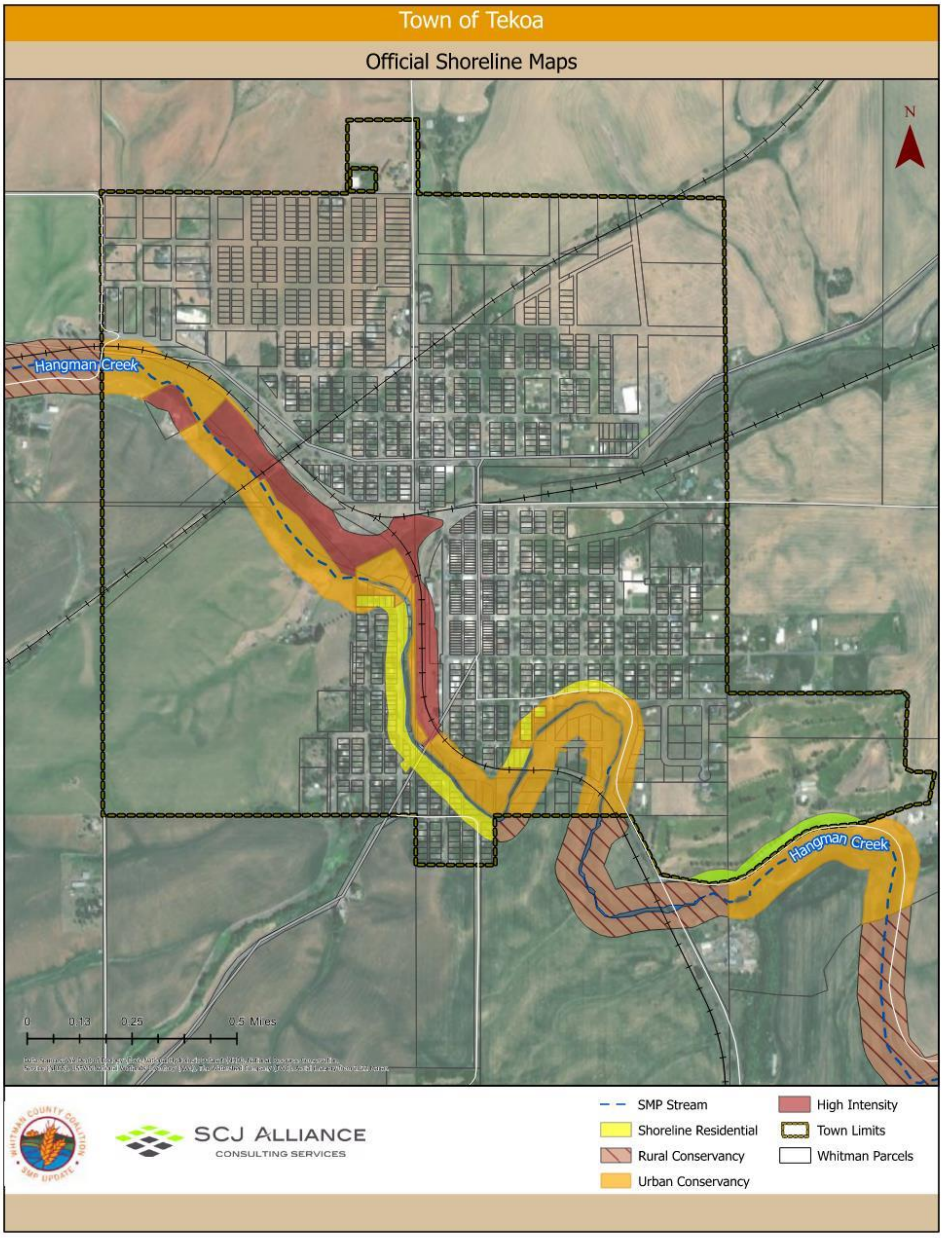
1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,

2. Additions to existing single-story residences that are 250 square feet or less,

3. Installation of fences.

C. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

# Appendix C: Shoreline Environment Designation Map



# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Rachel Granrath<br>SCJ Alliance | Tekoa | 01/04/2023 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended **floating on-water residences** provisions | Pg. 34, 5.8, A, 5. Floating homes are prohibited. | No Action Needed. |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | Pg. 31, 5.5, B, 1 & Pg. 35, 5.9, B, 4 both include fish passage reference. See exemptions 7.6 C pg53 since it specifically relates back to this section | Add DOE Example language. **Added 7.6, C, 2.** 5.5 B is on page 64, 5.9 B is on page 67/68 |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | No boating facilities (e.g., docks) are allowed in jurisdiction. | No Action Needed. |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $8,504. | Pg. A-19 Definition of Substantial development. Currently at $6,416 | Needs updated to include newest threshold. **Changed to $8,504** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Pg. A-5. Definition of Development. Does not mention dismantling or removing structures. | Clarification language could be added regarding what doesn't qualify as development. **Added DOE example language A-5, Development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | Page 94, Definition of exempt includes RCW 90.58.355. 7.6, C references RCW. | DOE example language could be added for clarification. **Added 7.6, C page 94** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | "Date of filing: mentioned within Pg. 47, 7.3, E. and referenced in Pg. 52, 7.6, I. "date of receipt" not mentioned in SMP. | No Action Needed. |
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA | Forest practices are prohibited in shoreline jurisdiction. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | "developments" and do not require SDPs. | | |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | No mention of federal jurisdiction exemption. | Update needed to include DOE example language. **Added Pg. 2, 1.5, C, 6.** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | Pg. 53, 7.7 have "uses" and "structures combined. A-12 Definitions did not have a definition for nonconforming structure/development. | Update needed to both sections to separate these to align with DOE examples. **Added definition on Pg. A-12 Separated sections under 7.7, page 101** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language. **Added 7.6, C, 4, page 82** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Pg. B-8, Ch 3, B references Eastern Washington Rating system. | No Action Needed. |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | Pg. 48, Ch. 7.6, C, references RCW 90.58.140. | Recommend adding language under time limits for clarification. **Added 7.6, J, 1, page 82** |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined | No Action Required |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under 'Wetland edge' definition. | No Action Required |
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines in County. | No Action Needed. |
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally | Pg. 34, 5.8, A, 5. Floating homes are prohibited. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | established prior to January 1, 2011. | | |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | SMP contains clarified language. | No Action Needed. |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language. | No Action Needed. |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language. | No Action Needed. |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language. | No Action Needed. |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language. | No Action Needed. |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language. | No Action Needed. |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language. | No Action Needed. |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☐ | Yes | |
| | ☒ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☐ | Yes | |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

## Changes to local circumstance, new information, or improved data

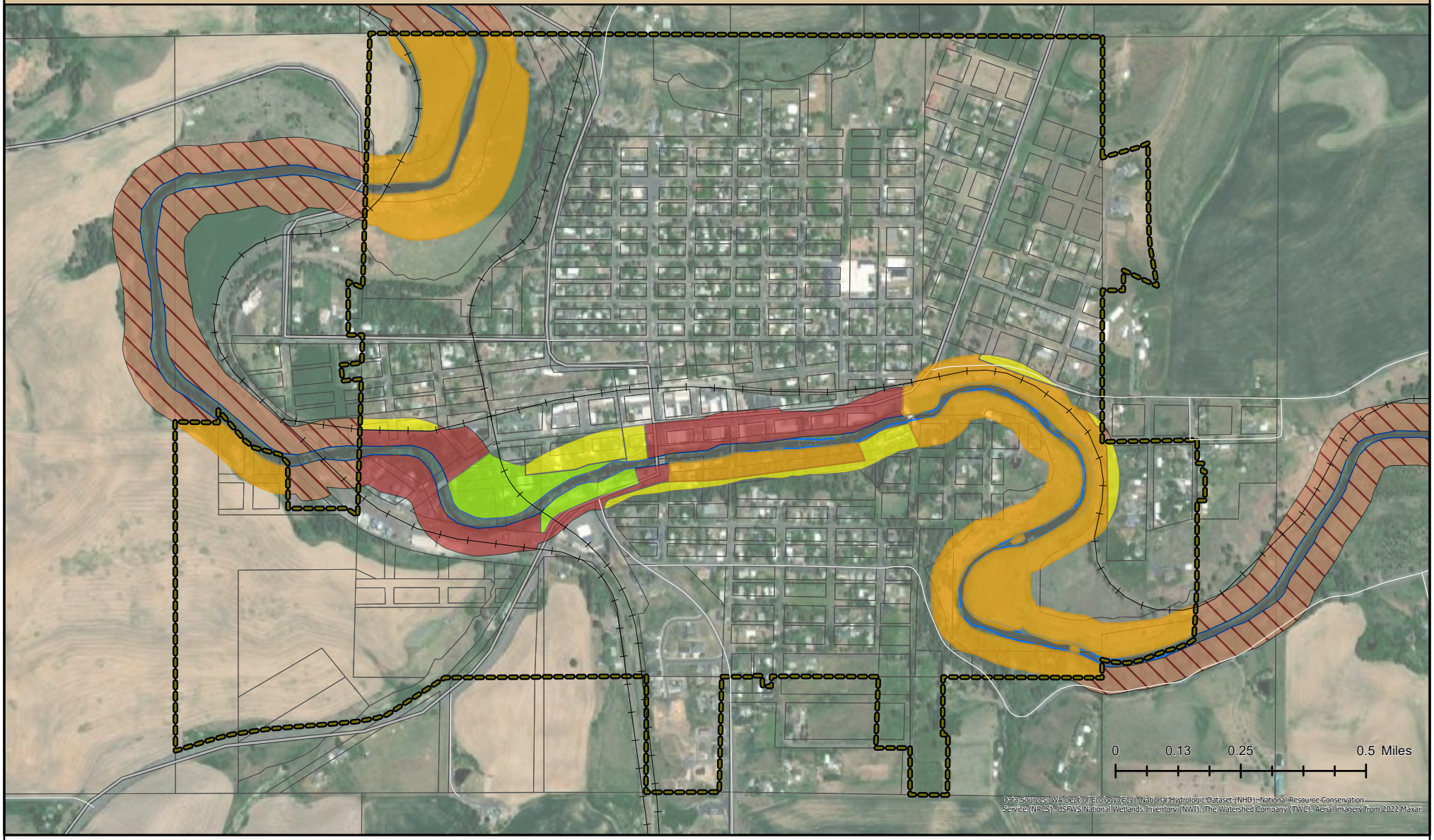
| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

# City of Palouse

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Rural Conservancy
- Urban Conservancy
- High Intensity
- Shoreline Parks
- Town Limits
- Whitman Parcels



# CITY OF PALOUSE

# SHORELINE MASTER PROGRAM

**Adopted Ord. XX**
**Approved by Ecology XX**
**Effective XX**
**Periodic Update Working Draft: January 11, 2023**

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# READER'S GUIDE

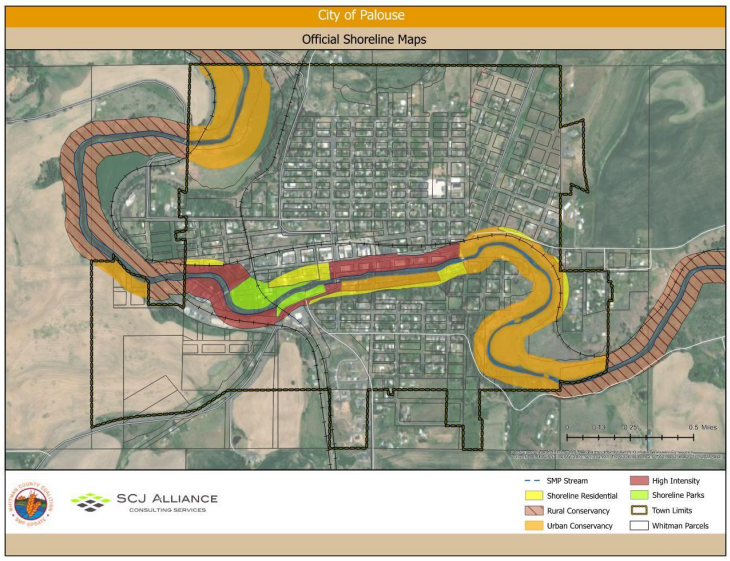
## A. The Shoreline Management Act and the City of Palouse's SMP

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. The SMA seeks to provide environmental protection for shorelines, preserve and enhance shoreline public access, and encourage appropriate development that supports water-oriented uses. The City developed and adopted its first Shoreline Master Program (SMP) in 1974 as part of a regional effort with Whitman County. That SMP was developed almost 40 years ago and since then there has been some change along the City's shoreline. In addition, knowledge of best development and conservation practices has evolved. There have also been changes in State laws and rules. Therefore, in accordance with the SMA, the City has prepared this SMP to guide and manage its shoreline.

The City of Palouse SMP contains goals, policies, regulations, and a shoreline environment designation map that guide the development of shorelines in accordance with the SMA (Revised Code of Washington [RCW] 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (Washington Administrative Code [WAC] 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

The goals and policies of Palouse's SMP, approved under chapter 90.58 RCW, create a framework for the regulations of the SMP. They provide guidelines for future decision making and future development of lands within the City's SMP jurisdiction boundaries.

All regulatory elements of this SMP, including, but not limited to, definitions and use regulations, are considered a part of the City's development regulations.



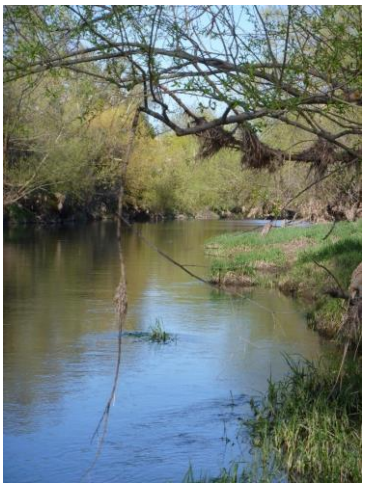
### B. Shoreline Jurisdiction

In accordance with state laws and rules, the jurisdiction of the City of Palouse's SMP encompasses the North Fork Palouse River, land within 200 feet of the ordinary high water mark (OHWM), its floodways, contiguous 100-year floodplain extending up to 200 feet inland of the floodway, and associated wetlands.

### C. Applicability and Exemptions

The SMP applies to all proposed uses and development occurring within shoreline jurisdiction. This SMP does not apply to certain activities that do not alter structures or properties, such as interior building changes or routine gardening. It also does not apply to legally established uses already on the land such as existing agriculture, existing residences, and other existing uses, structures, and activities. See Section 1.5 for a complete description of SMP applicability.

There are also activities that are exempt from the Shoreline Substantial Development Permit system. These activities are subject to the standards of the SMP but are not required to submit fees and other materials associated with Shoreline Substantial Development Permits. Common exemptions include, but are not limited to:



- Normal maintenance or repair of existing structures or developments
- Bulkheads common to single-family residences
- Emergency construction necessary to protect property from damage
- Construction and practices normal or necessary for farming, irrigation, and
    - ranching activities including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures
- Construction of a single-family residence

Exemptions are fully described and listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515, as amended. See Section 7.6 for additional information on exemptions.

### D. How to Read and Apply this SMP

When reading the SMP, it is useful to consider the definitions of the following terms that are based on definitions in the SMP Guidelines (WAC 173-26-020):

- Shall or must: means a mandate; the action must be done.
- Should: means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and shoreline master program, against taking the action.
- May: means the action is acceptable, provided it conforms to the provisions of this SMP and the Act.



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In general, this SMP uses the word "should" in goals, objectives, and policies, and "shall" in the regulations. Additional definitions are located in Appendix A.

For informational purposes, the flow chart below (Figure RG-1) illustrates how an applicant could navigate the regulations to determine if and how they apply to a particular project and property. In addition to approval from the City of Palouse, any shoreline development or construction project may also require a permit or approval from the U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Ecology, and/or the Washington Department of Natural Resources, among others.

### E. Document Organization

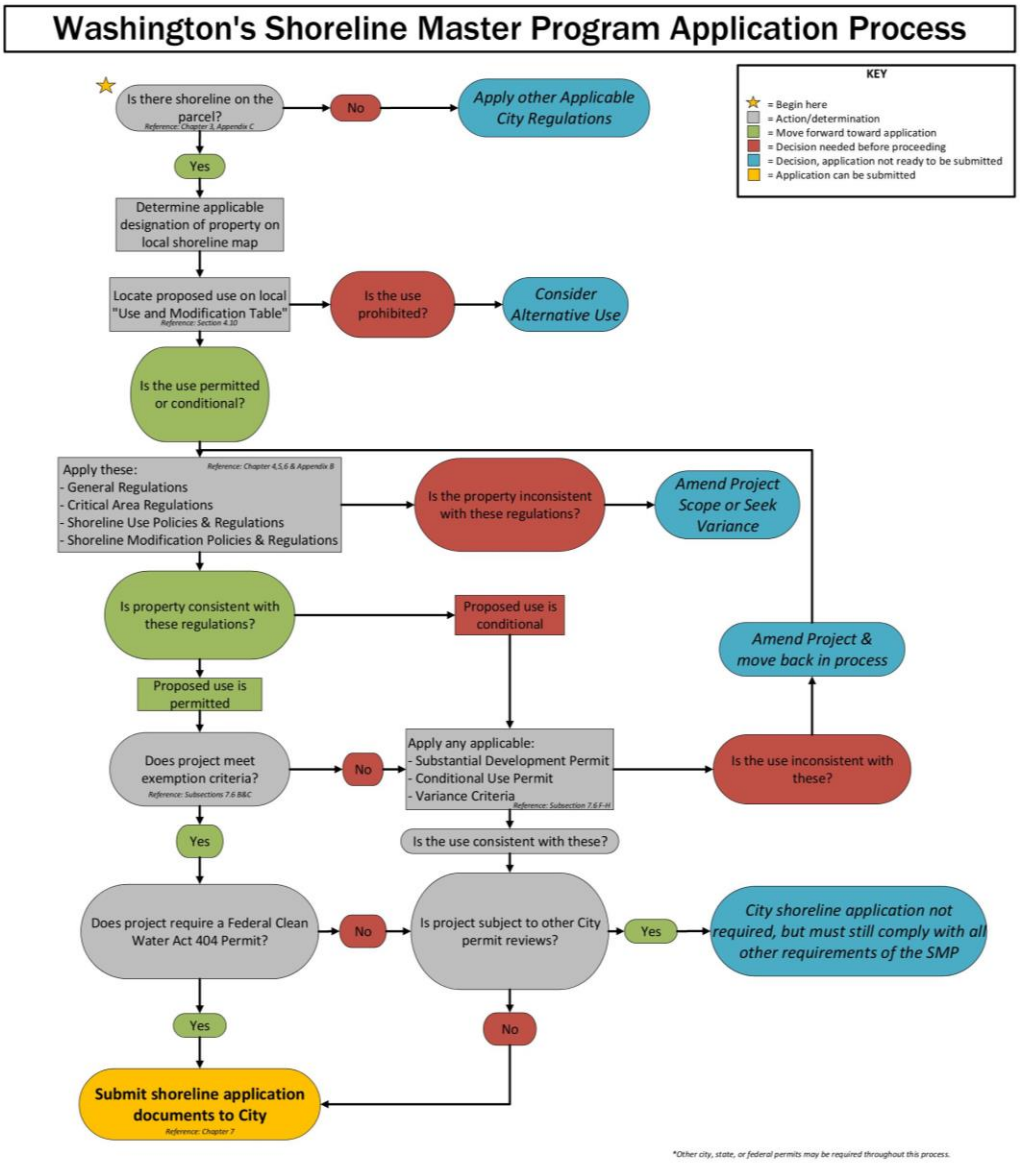
The SMP establishes long-term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other City planning documents such as the City of Palouse Comprehensive Plan and the Palouse Municipal Code (PMC). The organization of the SMP and the purpose for each chapter is explained below.

- Chapter 1. Introduction: provides background, purpose and legal authority.
- Chapter 2. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.
- Chapter 3. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.
- Chapter 4. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.
- Chapter 5. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.
- Chapter 6. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.



- Chapter 7. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.
- Appendix A. Definitions: provides definitions for terms used throughout the SMP.
- Appendix B. Shoreline Critical Area Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.
    - Appendix C. Shoreline Environment Designations Map. Contains the Official Shoreline Map illustrating the environment designations for shoreline jurisdiction in the City of Palouse.

Figure RG-1. Shoreline Application Process Flow Chart.



1.

# Introduction

## 1.1 TITLE

This document shall be known and may be cited as the City of Palouse Shoreline Master Program (the "Program", "Master Program" or "SMP").

## 1.2 ADOPTION AUTHORITY

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

## 1.3 PURPOSE AND INTENT

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

A. Encourage water-dependent and water-oriented uses: "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shorelines...."
B. Promote public access: "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
C. Protect shoreline natural resources, including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

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

## 1.4 PURPOSE AND RELATIONSHIP TO STATE PLANNING AND SHORELINE LAWS

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974. The 1974 Palouse SMP was passed and adopted by Ordinance #466 in July of 1974.

The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities.



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The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. Consistent with RCW 36.70A.480, the goals and policies of this SMP

that are approved under RCW 90.58 shall be considered an element of the City of Palouse Comprehensive Plan, and all regulatory elements of this SMP shall be considered a part of the City's development regulations.

After the City's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the City and approved by Ecology.

## 1.5 APPLICABILITY

A. Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

B. Except as described in Subsection C, all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 1.5 (Adoption Authority).

C. This SMP does not apply to the following activities:

1. Consistent with Appendix A (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26-241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.
2. Interior building improvements that do not change the use or occupancy;
3. Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;
4. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
5. As of the effective date of the SMP, legal pre-existing residential uses and structures where no change or new activity is proposed.
~~5.~~6. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

D. Activities that are exempt from the permit system in Subsection 7.6(B) shall comply with this SMP whether or not a permit or other form of authorization is required.

E. The shoreline permit procedures, policies and regulations established in this SMP shall apply countywide to all nonfederal uses, activities, and development.

F. This SMP applies to lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

G. This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 have been met.

H. A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application.



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Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a

determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

## 1.6 LIBERAL CONSTRUCTION

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

## 1.7 SEVERABILITY

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

## 1.8 EFFECTIVE DATE

The SMP is hereby adopted on the 24th of November, 2015. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

# 2. Shoreline Vision and Goals

## 2.1 SHORELINE VISION

It shall be the ultimate goal of the City of Palouse SMP to provide plans, policies and regulations consistent with the SMA (90.58 RCW) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the City of Palouse regarding the balanced use of the City's shorelines.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

## 2.2 SHORELINE GOALS

A. Shoreline Use

1. Promote the best use of City shorelines through encouraging shoreline development and modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.
2. Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the City as well as the shoreline environments, habitat, and ecological systems.
3. Other shoreline uses should not compromise agricultural production on designated agricultural lands.

B. Economic Development

1. Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the City of Palouse's shorelines. Shoreline economic growth and prosperity should take into account the existing rural character of the city.
2. Permit those commercial, industrial, recreational, and other developments that require a location along the shoreline, and which may contribute to the economic well-being of the City of Palouse while achieving no net loss of ecological function.
3. Promote new water-oriented economic development, with preference given to water-dependent uses, then water-related uses and then water-enjoyment uses.

C. Public Access

1. Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the City's shoreline.
2. Ensure an adequate supply of safe public access to the City's shoreline.
3. Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

D. Recreation

1. Protect and expand opportunities for recreation in the City's shoreline areas, including but not limited to parks and other recreational areas.

2. Encourage and maximize water-oriented recreational opportunities along the shoreline.

E. Conservation

1. Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

2. Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

3. Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

F. Transportation and Circulation

1. Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the City's shoreline.

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

3. Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

G. Restoration

1. Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and

habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration Plan.

2. Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non-profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

H. Archaeological, Historical, and Cultural Resources

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

I. Flood Hazard Management

Protect the City of Palouse from losses and damage created by flooding along the shoreline.

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# 3. Shoreline Jurisdiction and Environment Designations

## 3.1 SHORELINE JURISDICTION AND USE PREFERENCES

A. Definition

1. As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres. In the City of Palouse, the North Fork Palouse River is a shoreline.

2. Shorelands, as adopted by the City of Palouse and indicated on the Official Shoreline Map available for review at City Hall, are defined as:

   *"those lands extending landward for 200 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…." (RCW 90.58.030)*

   The City of Palouse will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

3. The extent of shoreline jurisdiction is indicated on the Official Shoreline Map available for review at City Hall. The purpose of the Official Shoreline Map is to identify Environment Designations (Section 3.3 below). The map only approximately identifies or depicts the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

4. In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

B. General Shoreline Use Preferences

1. This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

   *"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

   *In the implementation of this policy, the public's opportunity to enjoy the*

*physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the [D]epartment [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

2. When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173-26-201(2)(d) shall be applied in the order presented below:

    a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

    b. Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

    c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.

    d. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

    e. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

## 3.2 SHORELINES OF STATEWIDE SIGNIFICANCE

A. Designation of Shorelines of Statewide Significance.

1. Certain shoreline waterbodies and their associated shorelands have elevated status under the SMA if they are streams and rivers in Eastern Washington that are "…downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer" (RCW 90.58.030(2)(e)(v)(B)). These waterbodies are considered to be "shorelines of statewide significance," and have unique supplemental provisions outlined in Subsections 3.2(B) and (C) below.

2. In the City of Palouse, the North Fork Palouse River is a Shoreline of Statewide Significance.

B. Use Preferences

1. In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all Shorelines of Statewide Significance in the City, as defined in RCW 90.58.030(2)(e). Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses in the following order that are consistent with the statewide interest in the City of Palouse's shorelines. These are uses that:

   a. Recognize and protect the statewide interest over local interest;
   b. Preserve the natural character of the shoreline;
   c. Result in long term over short term benefit;
   d. Protect the resources and ecology of the shoreline;
   e. Increase public access to publicly owned areas of the shorelines;
   f. Increase recreational opportunities for the public in the shoreline;
   g. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary. (WAC 173-26-251(2))

2. Uses that are not consistent with these preferences should not be permitted on Shorelines of Statewide Significance.

C. Policies.

Consistent with the use preferences for Shorelines of Statewide Significance contained in RCW 90.58.020 and identified in Subsection 3.2(C), the City will base decisions administering this SMP on the following policies in order of decreasing priority:

1. Recognize and protect the state-wide interest over local interest.

   a. Solicit comments and opinions from groups and individuals representing state-wide interests by circulating amendments to this Master Program, and any proposed amendments affecting Shorelines of Statewide Significance, to state agencies, affected Tribes, adjacent local governments', citizen's advisory committees and local officials, and state-wide interest groups.
   b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
   c. Solicit comments, opinions and advice from individuals with expertise in ecology and other scientific fields pertinent to shoreline management.

2. Preserve the natural character of the shoreline.

   a. Designate and administer shoreline environments and use regulations to protect and restore the ecology and environment of the shoreline as a result of human intrusions on shorelines.

b. Restore, enhance, and/or redevelop those areas where intensive development already exists in order to reduce adverse impact on the environment and to accommodate future growth rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.

c. Protect and restore existing diversity of vegetation and habitat values, wetlands, and riparian corridors associated with shoreline areas.

d. Protect and restore habitats for State-listed "priority species."

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

a. Evaluate the short-term economic gain or convenience of developments relative to the long-term and potentially costly impairments to the natural shoreline.

b. Preserve resources and values of Shorelines of Statewide Significance for future generations and restrict or prohibit development that would irretrievably damage shoreline resources.

c. Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats and unique environments.

4. Protect the resources and ecology of the shoreline.

a. All shoreline development should be located, designed, constructed and managed consistent with mitigation sequencing provisions outlined in Section 4.3 (Environmental Protection) to minimize adverse impacts to regionally important wildlife resources, including spawning, nesting, rearing and habitat areas, and migratory routes and result in no net loss of shoreline ecosystems and ecosystem-wide processes.

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

5. Increase public access to publicly owned areas of the shoreline.

a. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, especially those trail corridors that would be a regional recreational and transportation resource.

b. Locate development landward of the OHWM so that access is enhanced and opportunities for access are not precluded.

c. Increase public access opportunities for those with disabilities consistent with the Americans with Disabilities Act.

d. Provide incentives to landowners that provide shoreline public access, such as development incentives, tax reductions, or other measures.

6. Increase recreational opportunities for the public on the shoreline.

a. Plan for and encourage development of facilities for public recreational use of the shoreline, including facilities for boating, swimming, fishing, and other water-oriented activities.

b. Reserve areas for lodging and related facilities on uplands with provisions for appropriate public access to the shoreline.

## 3.3 SHORELINE ENVIRONMENT DESIGNATIONS

A. Urban Conservancy

1. Purpose: The Urban Conservancy environment is intended to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist

in urban and developed settings, while allowing a variety of compatible uses.

2. Designation Criteria: Specific criteria for designation of the Urban Conservancy environment include areas or properties that:

   a. Lie in the City limits;
   b. Are planned for development that is compatible with the principals of maintaining or restoring the ecological functions of the area;
   c. Are suitable for water-enjoyment uses;
   d. Are open space or floodplains, or;
   e. Are areas that retain important ecological functions which should not be more intensively developed.

3. Management Policies:

   a. Allowed uses for the Urban Conservancy environment generally include uses which preserve the natural character of the area, and promote the preservation of open space, floodplains or sensitive lands.
   b. Water-oriented uses should be given priority over nonwater-oriented uses.
   c. Development in the Urban Conservancy environment should only be allowed if it would not result in a net loss of shoreline ecological functions, and if significant ecological impacts can be mitigated.
   d. Public access and recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

B. Shoreline Residential

1. Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

2. Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

3. Management Policies:

   a. Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
   b. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
   c. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
   d. Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

C. Shoreline Parks

1. Purpose: The purpose of the Shoreline Parks environment is to:

   a. protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and
   b. Ensure appropriate management and development of existing and future public parks

and recreation areas.

2. Designation Criteria: Assign a Shoreline Parks environment designation if any of the following characteristics apply:

   a. They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;
   b. They are suitable for water-related or water-enjoyment uses;
   c. They are open space, floodplain or other sensitive areas that should not be more intensively developed;
   d. They have potential for ecological restoration;
   e. They retain important ecological functions, even though partially developed; or
   f. They have the potential for development that is compatible with ecological restoration.

3. Management Policies:

   a. Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.
   b. Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.
   c. Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.
   d. Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
   e. Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.
   f. Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.

g. Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

D. High Intensity

1. Purpose: The purpose of the High Intensity environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

2. Designation Criteria: Assign a High Intensity environment designation to shoreline areas within the City if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

3. Management Policies

a. Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

b. When considering shoreline environment designation amendment proposals, full utilization of existing High Intensity-designated areas should be achieved before further expansion of intensive development is allowed.

c. New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d. Where feasible, visual and physical public access should be required as part of development in the High Intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

e. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

E. Aquatic

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

2. Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

3. Management Policies:

a. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

b. The size of new over-water structures should be limited to the minimum necessary to



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support the structure's intended use.

c. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

d. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

e. Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem-wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

F. Environment Designation Interpretation

1. If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:

a. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

b. In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.

c. Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.

d. Boundaries indicated as approximately parallel to or extensions of features indicated in (a), (b), or (c) above shall be so construed.

2. In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in term of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Chapter 7 (Administration and Permitting) of this Title and all regulations set forth in the PMC. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), a SMP amendment may be obtained consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

3. All shoreline areas waterward of the OHWM shall be designated Aquatic.

4. All shoreline areas upland of the OHWM shall be designated Urban Conservancy, Shoreline Residential, Shoreline Parks, or High Intensity.

5. Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map (for example: “boundary is 100 feet upland from the OHWM”).

G. Official Shoreline Map and Unmapped or Undesignated Shorelines

1. The Official Shoreline Map at the time of SMP adoption, which illustrates the delineation of shoreline jurisdiction and environment designations in the City, are available for review at City Hall. The Official Shoreline Map shall include the following language: "We hereby

certify that this map constitutes the Official Shoreline Map as approved by Ordinance #936 of the City Council and signed by its chair dated this 24th day of November, 2015." The Official Shoreline Map may be updated administratively or through an SMP amendment as indicated in Subsections (G)(2-4) below. The Department of Ecology will be provided with electronic files of the Official Shoreline Map when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than 1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

2. Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Where the mapping inaccuracy results in inclusion of an unmapped associated wetland, that wetland shall be assigned an Urban Conservancy designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Map without an SMP amendment.

3. All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 7.9 (Amendment of Shoreline Master Program).

4. The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

5. In addition, any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associate wetlands, for example, may be developed at the site-specific scale and site conditions may change over time. Revisions to the Official Shoreline Map may be made as outlined in this Subsection (G)(5) without an SMP amendment.

# 4. General Policies and Regulations

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## 4.1 INTRODUCTION

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

## 4.2 SHORELINE USE AND DEVELOPMENT REGULATIONS

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A. Policies

1. Give preference along the shoreline to water-oriented uses, while controlling pollution and preventing damage to the natural environment.

1. Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.

2. Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.

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

4. Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

5. Protect current agricultural uses on agricultural land and provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.

B. Regulations

1. All uses in the shoreline shall comply with the City's development code and this Program.

2. The shoreline use and modification table (Table 4.10-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

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

4. To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction, in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii), and 173-26-211(3)(b).

5. In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

6. The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

## 4.3 ENVIRONMENTAL PROTECTION

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A. Policies

1. Protect all shorelines of the state in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

2. Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the City's environmental resources (air, ground and surface waters, and indigenous biology).

3. Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of City residents.

B. Regulations

1. Ecological Functions. Uses and developments on the City's shoreline must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

2. Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of SMP Appendix B (Shoreline Critical Areas Policies and Regulations).

3. Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 4.3(B)(4) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 4.3(B)(4):

   a. If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or
   b. When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or
   c. When specifically required by regulations contained in this SMP.

4. Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 4.3(B)(3) must describe how the proposal will follow the sequence of mitigation as defined below:

   a. Avoid the impact altogether by not taking a certain action or parts of an action;
   b. Minimize the impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
   c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

d. Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

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

f. Monitor the impact and the compensation projects and take appropriate corrective measures.

5. Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

a. Removal of native plant communities in shoreline jurisdiction,

b. Removal of native or non-native trees that overhang the water,

c. Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,

d. Removal or alteration of priority habitats or habitat for priority species,

e. Construction of new or expanded in- and over-water structures,

f. Construction of new or expanded shoreline stabilizations,

g. New discharges of water into the Palouse River that may introduce pollutants,

h. Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or

i. Changes in grading or fill that reduce floodplain capacity.

6. Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional. Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City of Palouse, but may be voluntarily performed by an applicant. In addition to any requirements found in Section Appendix B (Shoreline Critical Areas Policies and Regulations), a mitigation plan must include:

a. An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;

b. A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;

c. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

d. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

e. Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;

f. A contingency plan if mitigation fails to meet established success criteria; and

g. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

7. Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation

approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the

standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

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## 4.4 SHORELINE VEGETATION CONSERVATION

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A. Policies

1. Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

2. Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

B. Regulations

1. Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

2. Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas must be managed consistent with Appendix B (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Appendix B, Subsection 5.D.

3. Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 4.3 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Palouse Municipal Code.

4. Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Palouse Municipal Code. Mitigation sequencing per Subsection 4.3(B)(4) (Environmental Protection) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drainfields, minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.

5. Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

   a. Removal of native trees, shrubs or groundcovers;
   b. Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes and

stream banks; or

c. Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Palouse Conservation District, and must contain information required in Subsection 4.3(B)(6). All mitigation plantings shall be preferentially placed in the shoreline buffer, unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

6. Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

7. Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation, and must not compromise the health of the tree.

8. Invasive species control.

   a. Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

   b. Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.

      i. Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

      ii. Coordination with Palouse Conservation District is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.

      iii. Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

      iv. Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

   c. Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

## 4.5 WATER QUALITY, STORMWATER, AND NONPOINT POLLUTION

A. Policies

1. Maintain and improve the water quality and quantity of the City's shoreline, and preserve surface and groundwater for the beneficial use of the City's citizens and wildlife over the long term.

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

3. Encourage effective erosion and sedimentation controls for construction in shoreline areas.

B. Regulations

1. Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions. All new uses and developments shall comply with the Environmental Protection regulations in Section 4.3(B).

2. Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and fishing) do not occur.

3. Requirements for new development.

   a. New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the latest edition of the Stormwater Management Manual for Eastern Washington (2004) or approved equivalent. If certain thresholds are not met by a development that trigger compliance with the Stormwater Management Manual or approved equivalent, best management practices (BMPs) must still be employed to avoid and minimize potential adverse effects.

   b. When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

4. Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

5. Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.

6. Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

## 4.6

## FLOOD HAZARD MANAGEMENT

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A. Policies

1. Recognize and protect the hydrologic functions of floodplains by limiting the use of

structural flood hazard reduction measures except where they are necessary to protect

existing development and where non-structural flood hazard reduction measures are infeasible.

2. Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

3. Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

B. Regulations

1. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 4.3 (Environmental Protection) and Section 6 (Frequently Flooded Areas) of Appendix B, as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

2. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review at City Hall. Applicants for shoreline development or modification may submit a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

3. The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 6 (Frequently Flooded Areas) of Appendix B:

   a. Actions that protect or restore the ecosystem-wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

   b. New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

   c. Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

   d. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs[1]. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

1 For the purposes of this Section "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may



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be used on a case-by-case basis with approval of the SMP Administrator. [20% has been used as a threshold by WSDOT and the Federal Department of Justice for ADA standards]

e. New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

f. Water-dependent installations which by their very nature must be in the floodway.

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

h. Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

i. Uses and developments allowed in the floodway under Section 6 (Frequently Flooded Areas) of Appendix B, provided they are otherwise consistent with all provisions of this SMP.

4. Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel migration, or undermine existing structures or downstream banks.

5. New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

6. New public and private structural flood hazard reduction measures:

   a. Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

      i. That they are necessary to protect existing development;

      ii. That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

      iii. That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

      iv. That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

      v. That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

      vi. That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

   b. Shall be consistent with an approved comprehensive flood hazard management plan.

   c. Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

7. New public structural flood hazard reduction measures, such as levees, shall dedicate and

improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

8. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing City-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

9. The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 6.3 (Dredging and Dredge Material Disposal), and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## 4.7 ARCHAEOLOGICAL, HISTORICAL, AND CULTURAL RESOURCES

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A. Policies

1. Protect archaeological, historic, and cultural resources.

2. Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation (DAHP), should be prevented.

B. Regulations

1. Permits issues in areas known to have, or suspected of having, archaeological artifacts or resources shall consult the Statewide Predictive Model and determine the appropriate action as follows:

   a. The project will be exempt if an of the following are met:
      i. Prior negative archaeological survey is on file
      ii. No ground disturbance will occur
      iii. The project is in 100 percent culturally-sterile fill
   b. If no known cultural resources are present, the DAHP Predictive Model shall be applied and the survey recommendations shall be followed according to the associated risk identified.
   c. If cultural resources are present and ground-disturbance is proposed, then a site inspection or evaluation by a professional archaeologist is required in coordination with affected Tribes and DAHP prior to initiating disturbance. The resource shall be avoided or a mitigation strategy shall be determined. Cost of the evaluation and inspection is the responsibility of the permit applicant. A permit from DAHP may be required under RCW 27.53.

2. In accordance with state law:

a. In the event that human remains, burials, funery items, sacred objects, or objects of cultural patrimony are found during project implementation, all provisions of RCW 68.50.645 must be adhered to.

b. In the event that prehistoric artifacts or historic-period artifacts or features are found during project implementation, all work shall cease immediately within 200 feet of the find, Washington State DAHP shall be contacted, and all provisions of RCW 27.53 shall be adhered to.

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## 4.8 PUBLIC ACCESS

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A. Policies

1. Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

2. Consistent with the overall best interest of the state and the people of the City of Palouse, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views.

3. Recognize that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.

4. Regulate the design, construction, and operation of permitted uses in the City's shoreline jurisdiction to reduce interference with the public's use of the water.

5. Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals.

B. Regulations

1. Requirements and conditions for public access shall be consistent with all relevant constitutional and other legal limitations set on regulation of private property.

2. Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.

3. In compliance with RCW 36.87.130, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.

4. Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

5. Shoreline substantial developments and shoreline conditional uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:

   a. The development is proposed or funded by a public entity or is on public lands;
   b. The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;
   c. The proposed use, activity or development is not a water-oriented or other preferred

shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or

d. The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.

e. The proposed use is a multiunit residential development or a subdivision of land for more than four parcels.

6. An applicant shall not be required to provide public access where the City determines that one or more of the following conditions apply:

   a. Proposed use, activity or development only involves the construction of four or fewer single-family or multifamily dwellings or a subdivision with four or fewer lots;

   b. The proposed use, activity or development only involves agricultural activities;

   c. The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

   d. The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

   e. The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

   f. Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

   g. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

7. Public access locations shall be clearly marked and available to the public.

8. The City may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public and private space, including but not limited to, fencing, vegetation, and elevation separations.

9. The City shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

10. Where public access is provided, it shall be designed and located to achieve no net loss of existing shoreline ecological function.

## 4.9 UNCLASSIFIED USES

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 7.6(G) of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

## 4.10 SHORELINE USE AND MODIFICATION TABLE



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All uses and developments in the City's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

**Table 4.10-1 Use and Modification Table**

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| **Agriculture** | | | | | |
| Existing Agricultural Activities | Not regulated by this SMP | | | | |
| New Agricultural Activities | P | P | P | P | N/A |
| Agricultural Related Activities | P | C | X | P | N/A |
| **Aquaculture** | | | | | |
| Commercial | X | X | X | X | X |
| Non-commercial | P | X | P | P | P |
| **Boating Facilities** | | | | | |
| Over and In-water Structures | X | X | X | X | X |
| Soft Launch Area | P | X | P | P | See adjacent upland designation |
| **Breakwaters, Jetties, Weirs and Groins** | | | | | |
| To protect or restore ecological functions | P | P | P | P | P |
| All other purposes | C | C | C | C | C |
| **Commercial Development** | | | | | |
| Visitor-serving uses | P | P | P | P | C |
| Recreation concessions | P | P | P | P | P |
| Other retail, trade or service | | | | | |
| General | C | C | C | P | C |
| Separated from Shoreline[2] | P | C | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | P | C | P | P | P |
| **Dredging and Dredge Material Disposal** | | | | | |
| Dredging | N/A | N/A | N/A | N/A | P |
| Dredge Material Disposal[3] | C | C | P | P | X |
| **Fill and Excavation** | | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | P | N/A |
| **Flood Hazard Management** | | | | | |
| Modification of Existing Flood Hazard Facilities | P | P | P | P | P |

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| New Facilities | C | P | C | P | See adjacent upland designation |
| **Forest Practices** | | | | | |
| Forest Practices | C | C | X | X | N/A |
| **Industrial Development** | | | | | |
| Water-Oriented | X | X | X | P | P |
| Nonwater-Oriented | | | | | |
| General | X | X | X | P | X |
| Separated from Shoreline[1] | X | X | X | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | X | X | X | P | P |
| **In-Stream Structures** | | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; or support agriculture | P | P | P | P | P |
| Other | C | C | C | P | See adjacent upland designation |
| **Mining** | | | | | |
| Gold-Panning | X | X | X | X | P |
| All Other Mining | X | X | X | X | X |
| **Recreational Development** | | | | | |
| Water-Oriented | P | P | P | P | P |
| Nonwater-Oriented | | | | | |
| General | X | C | C | C | X |
| Separated from Shoreline[2] | P | P | P | P | N/A |
| **Redevelopment, Repair, and Maintenance** | | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P | P |
| **Residential Development** | | | | | |
| Single- or Two-Family Dwelling | P | P | X | P | X |
| Multi-Family Dwelling | C | C | X | P | X |
| **Shoreline Restoration and Enhancement** | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| Shoreline Restoration and Enhancement Projects | P | P | P | P | P |
| **Shoreline Stabilization** | | | | | |

| Shoreline Use or Modification | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1]**<br>**C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited Use**<br>**N/A = Not Applicable** | | | | | |
| New Stabilization | P | P | P | P | P |
| **Transportation and Parking** | | | | | |
| Expansion of Existing Transportation and Parking Facilities | P | P | P | P | P |
| New Access Roads Serving Permitted Uses | P | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | C | C | P | P | N/A |
| New Bridges | C | C | C | P | C |
| New Railways | C | C | C | P | C |
| New Airstrips | X | X | X | X | N/A |
| New Trails or Pedestrian Bridges | P | P | P | P | P |
| New Parking to Support Authorized Use[4] | P | P | P | P | N/A |
| **Utilities** | | | | | |
| Expansion of Existing Utilities | P | P | P | P | C |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | C | C | C | P | C |
| New Power Generating Facilities | C | C | C | P | C |
| New Utility Transmission Lines | P | P | P | P | C |
| New Utility Services, General | P | P | P | P | C |
| New Wastewater Treatment Facility | C | C | C | P | C |

[1] The determination of whether a permitted use requires a Shoreline Substantial Development Permit or is exempt from a permit depends on whether the specific proposal meets the criteria for a shoreline exemption as identified in Subsection 7.6(C) and WAC 173-27-040. This determination is made by the Shoreline Administrator as outlined in Subsection 7.2(A).
[2] Site "separated from shoreline" are those sites physically separated from the shoreline by another property or public right of way.
[3] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.
[4] Parking as a primary use prohibited in all designations per WAC 173-26-241(3)(k)).

## 4.11 SHORELINE DEVELOPMENT STANDARDS

A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 4.11-1. In addition, shoreline developments shall comply with all other dimensional requirements of the Palouse Municipal Code.

B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

**Table 4.11-1**

| Development Standard | Urban Conservancy | Shoreline Residential | Shoreline Parks | High Intensity |
|---|---|---|---|---|
| **COM: Commercial**<br>**LI: Light Industrial**<br>**OS: Open Spaces** | | **R1: Single-unit Residential**<br>**R2: Multi-unit Residential** | | |
| Minimum Lot Size | R1: 7,000 sqft | R1: 7,000 sqft<br>R2: 10,000 sqft | R1: 7,000 sqft<br>R2: 10,000 sqft<br>OS: N/A | COM: 5,000 sqft<br>OS: N/A<br>LI, R2: 10,000 sqft<br>R1: 7,000 sqft |
| Building Height Maximum [1] | 35 ft | 35 ft [2] | 35 ft [2] | 35 ft [2] |
| Shoreline Buffer | Refer to Subsection 5.D(3)(d) of Appendix B | Refer to Subsection 5.D(3)(d) of Appendix B | Refer to Subsection 5.D(3)(d) of Appendix B | Refer to Subsection 5.D(3)(d) of Appendix B |

[1] Utility facilities and bridges are not required to meet the 35 foot height limit standard.

[2] If a property has an underlying zoning classification pursuant to PMC Title 17 that allows buildings taller than 35 feet, a building or structure may be constructed on that property to the height limit of the underlying zone, subject to the applicant demonstrating the following to the satisfaction of the SMP Administrator:

a. Demonstrates overriding considerations of the public interest will be served; and,
b. Demonstrates that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair scenic vistas.

C. Water-oriented structures shall be allowed to exceed a height of thirty-five (35) feet without a Shoreline Variance when the need for the increased height of the proposed structure is demonstrated and is limited to the minimum height necessary to serve the intended purpose. Such structures may include, but are not limited to, cranes or other facilities designed to move or place products, fixed loading facilities that must provide clearance over vessels, storage facilities such as grain elevators, as well as accessory features such as lighting required for operations. All other structures must apply for a Shoreline Variance, and also meet standard Shoreline Variance criteria (Subsection 7.6(H)).

D. Shoreline buffers: See Section 5.D of Appendix B (Shoreline Critical Areas Policies and Regulations).

# 4.

# Shoreline Use Policies and Regulations

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## 4.1 AGRICULTURE

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A. Policies

1. Allow and maintain productive agricultural lands in shoreline jurisdiction.

2. Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.

3. Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.

4. Allow diversion of water for agricultural purposes consistent with water rights laws and rules.

5. Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

B. Regulations

1. Appendix A (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.

2. The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection (1) and information regarding typical agricultural practices for the subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage facilities activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.

3. SMP provisions shall apply in the following cases:

   a. New agricultural activities on land not meeting the definition of agricultural land;
   b. Expansion of agricultural activities on non-agricultural lands, or conversion of non-agricultural lands to agricultural activities;
   c. Conversion of agricultural lands to other uses;
   d. Other development on agricultural land that does not meet the definition of agricultural activities; and
   e. Agricultural development and uses not specifically exempted by the SMA.

4. Feed lots and stockyards are prohibited in shoreline jurisdiction.

5. Vegetative buffers consistent with Subsection 5.D of Appendix B shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection 3.

6. Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

7. No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

8. Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

## 4.2 AQUACULTURE

A. Policies

1. Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.
2. Encourage aquaculture that supports the recovery of endangered or threatened fish species.
3. Consider visual access and aesthetic quality of the shoreline in siting aquaculture facilities.

B. Regulations

1. Aquacultural facilities must be designed and located to avoid:
   a. The spreading of disease, especially to native aquatic life;
   b. Introducing new non-native species which cause significant ecological impacts;
   c. Significantly conflicting with navigation and other water-dependent uses;
   d. A net loss of ecological functions; or
   e. Significantly impacting the aesthetic qualities of and visual access to the shoreline.
2. All facilities shall comply with the Environmental Protection regulations in Section 4.3(B).
3. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, and commercial navigation. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

## 4.3 BOATING FACILITIES

A. Policies

1. Give boating facilities priority for shoreline location.
2. Design and construct boating facilities to result in no net loss of ecological functions.
3. Give preference to boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover. In support of this, community structures are encouraged.
4. Ensure new boating facilities are located only at sites where suitable environmental conditions, shoreline configuration, access, and compatible adjacent uses are present. Such facilities should be coordinated with applicable local, state and federal plans and, where feasible, collocated with other compatible water-dependent uses to efficiently provide recreational resources, avoid unnecessary duplication, and minimize adverse impacts to shoreline ecological functions and processes.
5. Ensure boating facilities are located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; impacts to navigation; and impacts to public access to the shoreline.



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B. Regulations

1. Boat launches for public or non-residential private use may be allowed consistent with this SMP; no other boating facilities (e.g., docks) are allowed in the City of Palouse.

2. New or expanded boat launch ramps may be approved only if they provide public access to waters that are not adequately served by existing access facilities or if use of existing facilities is documented to exceed the designed capacity.

3. General design standards.

   a. All new boating facilities shall comply with the Environmental Protection regulations in Section 4.3(B). Consistent with requirements for mitigation sequencing (4.3(B)(4)), all boat launches must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.

   b. Boat launches shall be constructed with materials that do not leach preservatives or other chemicals (including concrete and asphalt). Only clean, un-treated natural materials such as rock or wood may be used.

   c. New public or commercial boat launch facilities must provide adequate restroom facilities.

4. General location regulations. New and expanded boat launches must be located to:

   a. Minimize hazards and obstructions to public navigation rights.

   b. Avoid blocking or obstructing lawfully existing or planned public shoreline access.

   c. Minimize the need for new or maintenance dredging.

   d. Eliminate the need for new shoreline stabilization, if feasible. Where the need for stabilization is unavoidable, only the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft may be allowed.

   e. Allow for adequate water mixing and flushing and where water depths are adequate to eliminate or minimize the need for dredging or filling.

   f. Minimize the obstruction of currents, alteration of sediment transport, and the accumulation of drift logs and debris.

5. General construction regulations.

   a. Construction shall be completed during allowed in-water work windows.

   b. Construction impacts shall be confined to the minimum area needed to complete the project.

   c. The boundaries of clearing limits associated with site access and construction shall be flagged to prevent ground disturbance of riparian vegetation, wetlands, and other sensitive sites. This action shall be completed before any significant alteration of the project area.

   d. All temporary erosion controls shall be in place and appropriately installed downslope of project activities until site restoration is complete.

   e. Any large wood, native vegetation, topsoil, and/or native channel material displaced by construction shall be stockpiled for use during site restoration.

   f. No existing habitat features (i.e., wood, substrate materials) shall be removed from the shoreland or aquatic environment without approval.

   g. If native vegetation is moved, damaged, or destroyed, it shall be replaced with a functionally equivalent native species during site restoration.

6. Replacement of boat launches. If any of the following are proposed during a five-year period, the project is considered a new boat launch and must comply with applicable standards for new boat launches.
    a. Replacement of the entire facility.
    b. Replacement of 75 percent or more of a boat launch, by area.
7. Modification or enlargement of boat launches.
    a. Applicants must demonstrate that there is a need for modification or enlargement due to increased or changed use or demand, safety concerns, or inadequate depth of water.
    b. Enlarged portions of boat launches must comply with applicable standards for new facilities.
8. Repair of boat launches.
    a. Repairs to legally established boat launches are permitted consistent with all other applicable codes and regulations.
    b. All repairs must utilize any material standards specified for new facilities.
9. Mitigation.
    a. Mitigation proposals must provide impact mitigation at a minimum one-to-one ratio, by area, using one or more of the potential mitigation measures listed below. The ratio should be increased if the measure will take more than one year to provide equivalent function or if the measure does not have a high success rate. Applicants should consult with other permit agencies, such as Washington Department of Fish and Wildlife and/or U.S. Army Corps of Engineers, for additional specific mitigation requirements.
    b. For all new or expanded boat launches, appropriate mitigation may include one or more of the following measures. In-kind measures are preferred over out-of-kind measures when consistent with the objective of compensating for adverse impacts to ecological function. Mitigation may not include measures that are already required by regulations.
        i. Removal of any legal existing over- or in-water structures that are not the subject of the application.
        i. Planting of native vegetation along the shoreline immediately landward of the OHWM consisting of a density and composition of trees and shrubs typically found in undisturbed areas adjacent to the subject waterbody.
        ii. Removal or ecological improvement of hardened shoreline. Improvement may consist of softening the face and toe of the hardened shoreline with soil, gravel and/or cobbles, and/or incorporating vegetation or large woody debris.
        iii. Removal of man-made debris waterward of the OHWM.
        iv. Placement of large woody material if consistent with local, state and federal regulations.
        v. Participation in an approved mitigation program.
10. Submittal requirements. For all new or expanded boat launches, applicants must provide:
    a. An assessment of potential impacts to existing ecological processes, including but not limited to sediment transport, hydrologic patterns, and vegetation disturbance.
    b. A mitigation plan for unavoidable adverse impacts to ecological functions or processes, if applicable.
    c. An assessment of need and demand. At a minimum, the assessment shall include the following:

i. Existing approved facilities, or pending applications, within the service range of the proposed new facility and relevant characteristics of those facilities, such as level of use and condition.

ii. The expected service population and relevant characteristics of the population, including any characteristics that justify specific design elements of the proposed facility.

iii. An assessment of existing water-dependent uses in the vicinity and potential impacts to those uses, and a description of proposed mitigation measures, if applicable.

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## 4.4 COMMERCIAL DEVELOPMENT

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A. Policies

1. Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-related and water-enjoyment uses should be prioritized over nonwater-oriented commercial uses.

2. Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater-oriented should be encouraged to locate inland from the shoreline jurisdiction.

3. Encourage new commercial development to locate in areas where commercial development uses already exist.

4. Ensure that new commercial development does not significantly reduce scenic views in shoreline jurisdiction.

B. Regulations

1. Commercial development shall comply with the Environmental Protection regulations of Section 4.3 and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

2. Preference shall be given to water-dependent commercial uses over non-water dependent commercial uses. Water-related uses and water-enjoyment uses shall be given priority over nonwater-oriented uses.

3. Commercial use that is not water-dependent shall not be allowed over water except where it is located within an existing building or where it is accessory to a water-dependent use.

4. Nonwater-oriented commercial development shall be prohibited unless they meet the following criteria:

   a. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access or ecological restoration; or

   b. Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access or ecological restoration.

5. In areas of the shoreline designated for commercial uses, nonwater-oriented commercial

uses may be allowed on sites physically separated from the shoreline by another property or public right-of-way.

6. New commercial developments shall provide public access to the shorelines subject to the regulations of Section 4.8 (Public Access) of this Master Program.

## 4.5 FOREST PRACTICES

A. Policies

1. Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to non-forest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system.

B. Regulations

1. Conversion to other use. Preparatory work associated with the conversion of land to non-forestry uses and/or developments shall be consistent with the following performance standards:
   a. Limit the conversion to the minimum necessary to accomplish the purpose and intent of the shoreline use environment, general policies and regulations, and specific shoreline modification and use policies on the subject property.
   b. Ensure no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.
2. State and local forest practice regulations. All forest practices, including forest conversions, undertaken on shorelines shall comply with the applicable policies and provisions of the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the City.
3. General Tree Management. Forest management activities that minimize the potential for catastrophic wildfires and hazard tree removal are allowed consistent with any applicable state and local forest practice regulations and Section 19.63.604 (Shoreline Vegetation Conservation).
4. Selective cutting – Shorelines of Statewide Significance. Within shoreline jurisdiction along Shorelines of Statewide Significance, only selective commercial timber cutting may be permitted so that no more than thirty percent (30%) of the merchantable timber may be harvested in any 10-year period; provided that, other timber harvesting methods may be permitted with a Shoreline Conditional Use Permit in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

## 4.6 INDUSTRIAL DEVELOPMENT

A. Policies

1. Attract water-oriented industrial uses for location in appropriate areas along the shoreline.
2. Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines, and other State and City requirements.



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3. Ensure that existing and new development of industrial facilities is consistent with all Master Program Guidelines and achieves no net loss of shoreline ecological function.

B. Regulations

1. Industrial facilities in the shoreline jurisdiction that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water-related.

2. Industrial development shall be in accordance with the following regulations:

   a. Industrial development shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

   b. In the review of shoreline developments, the City shall give preference to water-dependent uses and then water-oriented industrial uses.

   c. Regional and statewide needs for water-dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.

   d. Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporating public access as mitigation.

   e. Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 4.8(B)(6).

   f. Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

   g. In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

3. New nonwater-oriented industrial development shall be prohibited on shorelines except when:

   a. The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

   b. Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

## 4.7 IN-STREAM STRUCTURAL USES

A. Policies

1. Ensure the location, design, construction and maintenance of in-stream structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

2. Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.



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B. Regulations

1. In-stream structures shall comply with the Environmental Protection regulations in Section 4.3(B) and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (4.3(B)(4)), all structures must be the minimum size necessary and designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated, and a mitigation plan submitted.
2. The applicant must obtain all other state, local and federal permits required for in-stream structures in addition to the requirement of this SMP.
3. In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
4. New in-stream structures shall not interfere with existing water-dependent uses, including recreation.
5. In-stream structures shall not be a safety hazard or obstruct water navigation.
6. In-stream structures shall be designed by a qualified professional.
7. Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to navigation or human safety.

## 4.8 MINING

A. Policies

1. Ensure mining activities are sited, designed, conducted, and completed to result in no net loss of shoreline ecological functions and processes.
2. Mining upland of the OHWM should be prohibited and mining waterward of the OHWM should be limited to small-scale recreational activity.

B. Regulations

1. Allowed mining activities shall be conducted to comply with the regulations of the environment designation and the provisions applicable to critical areas where relevant. Meeting the no net loss of ecological functions standard shall include avoidance and mitigation of adverse impacts during the course of allowed mining.
2. Mining upland of the OHWM is not permitted in the City of Palouse.
3. Mining waterward of the OHWM is only allowed for non-commercial recreation purposes. Mining using hand-held mineral prospecting tools, such as gold pans, and more intensive recreational mining, using devices such as suction dredges, shall strictly follow the requirements of the Washington Department of Fish and Wildlife's Gold and Fish Pamphlet, including any applicable timing restrictions. Any recreational mining activities that do not follow the requirements described therein are required to obtain a Shoreline Conditional Use Permit.



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## 4. 9 RECREATIONAL DEVELOPMENT

A. Policies

1. Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between City, County and state parks departments.
2. Recognize the importance of shoreline resources in planning for water-oriented uses in the shoreline jurisdiction of the City.
3. Provide shoreline recreational development that is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state.
4. Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.
5. Provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

B. Regulations

1. Recreational development shall demonstrate achievement of no net loss of ecological functions and comply with the Environmental Protection regulations of Section 4.3.
2. Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with City development standards.
3. The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.
4. Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park or open space areas and trail access.
5. Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 5.4 (Commercial Development)

## 4.10 RESIDENTIAL DEVELOPMENT

A. Policies

1. Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.
2. Residential development in the City of Palouse should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function.
3. Residential development should aim to minimize environmental impact through ecological restoration and measures such as low impact development and vegetation conservation and enhancement.
4. Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper



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management, single-family residential use can cause significant damage to the shoreline

through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

5. Prohibit new floating homes and liveaboards.

B. Regulations

1. Residential development shall comply with all applicable subdivision, critical area, and zoning regulations and be consistent with applicable SMP environment designations and standards.

2. Single-family residences are considered a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

3. New residential lots created through land division shall be in accordance with the following:

   a. Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out of lots.

   b. Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

4. Residential development, including accessory uses and appurtenant structures, shall:

   a. Meet all applicable critical area, vegetation, and water quality standards of this SMP.

   b. Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.

   c. Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

5. New floating homes shall be prohibited.

6. Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP.

7. In accordance with Subsection 4.8(B)(5)(e) of this SMP, new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access.

8. All new residential developments and subdivisions shall comply with the Shoreline Stabilization regulations in Subsection 6.6(B)(1).

## 4.11 TRANSPORTATION AND PARKING

A. Policies

1. Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.

2. Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.



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3. Promote additional trail connections that are consistent with local and regional plans.

B. Regulations

1. Transportation and parking plans and projects shall be consistent with this SMP, public access policies, and provisions on environmental protection.

2. Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate, and all circulation plans and projects shall support existing and proposed shoreline uses that are consistent with this SMP.

3. Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible and adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

4. Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:

   a. Minimize possible adverse effects on unique or fragile shoreline

   b. Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.

5. Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:

   a. Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.

   b. Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

   c. Observe all regulations regarding critical areas and shoreline buffers.

   d. Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

6. The provisions of Section 6 (Frequently Flooded Areas) of Appendix B shall be addressed in the design of transportation facilities.

## 4.12 UTILITIES

A. Policies

1. Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.

2. Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

B. Regulations

1. All utility facilities are design and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

2. Utility production and processing facilities, such as sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

4. Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement corridor over new locations.

5. Development of pipelines and cables and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions shall be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

6. Existing utility services routed through shoreline areas shall not be a sole justification for more intense development.

## 4.13 REDEVELOPMENT, REPAIR, AND MAINTENANCE

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

A. Policies

1. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Appendix A (Definitions), unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

B. Regulations

1. SMP provisions shall not apply retroactively to existing uses and developments.

2. Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.

3. SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:

   a. The SMP Administrator shall determine the extent of compliance with SMP provisions.

   b. The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

# 6. Shoreline Modification Policies and Regulations

## 6.1 GENERAL REQUIREMENTS

A. Policies

1. Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

2. Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

B. Regulations

1. Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

2. As much as possible, the number and extent of shoreline modifications shall be limited.

3. Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

4. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (See Section 4.3(B)(4)). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

5. Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.

6. All feasible measures to protect ecological shoreline functions and ecosystem-wide processes as modifications occur shall be incorporated.

## 6.2 BREAKWATERS, JETTIES, WEIRS, AND GROINS

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A. Policies

1. Allow breakwaters, jetties, weirs and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

2. Consider alternative structures with less impact where physical conditions make such alternatives feasible.

B. Regulations

New, expanded or replacement structures shall only be allowed if it can be

demonstrated that they will not result in a net loss of shoreline ecological functions and that they support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

1. Breakwaters, jetties, weirs and groins shall be limited to the minimum size necessary.
2. Breakwaters, jetties, weirs and groins must be designed to protect critical areas and shall implement mitigation sequencing to achieve no net loss of ecological functions.
3. Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.
4. Permit requirements and the level of approval required is regulated by Table 4.10-1 in Section 4.10.

## 6.3 DREDGING AND DREDGE MATERIAL DISPOSAL

C. Policies

1. Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.
3. Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

D. Regulations

1. As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Section (4) below. This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.

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2. New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
3. Dredging and dredge material disposal must be done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided must be mitigated in a manner that assures no net loss of shoreline ecological functions.
4. Dredging may only be permitted for the following activities:
   a. Development of essential public facilities when there are no feasible alternatives.
   b. Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
   c. Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.
   d. Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the

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maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

5. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

6. Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

   a. Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and

   b. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

7. Dredge material disposal in open waters may be approved only when authorized by applicable state and federal agencies, and when one of the following conditions apply:

   a. Land disposal is infeasible, less consistent with this SMP, or prohibited by law.

   b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

8. All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:

   a. A description of the purpose of the proposed dredging activities.

   b. A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.

   c. A description of proposed dredging operations, including, but not limited to:

      i. The method of removal.

      i. The length of time required.

      ii. The quantity of material to be initially removed.

      iii. The frequency and quantity of projected maintenance dredging.

   d. A description of proposed dredge material disposal, including, but not limited to:

      i. Size and capacity of disposal site.

      ii. Means of transportation to the disposal site.

      iii. Future use of the site and conformance with land use policies and regulations, if applicable.

   e. Plans for the protection and restoration of the shoreline environment during and after dredging operations.

   f. An assessment of potential impacts to ecological functions or processes from the proposal.

   g. A mitigation plan to address identified impacts, if necessary.

## 6.4 FILL AND EXCAVATION

E. Policies

1. Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.



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2. Encourage fill when it is associated with restoration projects.

F. Regulations

1. All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (See Subsection 4.3(B)(4)).

2. Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when necessary to support one or more of the following:

   a. Water-dependent uses.

   b. Public access.

   c. Cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan.

   d. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Department of Natural Resources and/or the Dredged Material Management Office of the U.S. Army Corps of Engineers.

   e. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.

   f. Ecological restoration or enhancement when consistent with an approved restoration plan.

   g. Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.

   h. Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

3. Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

   a. Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.

   b. Located outside applicable buffers, unless specifically allowed in buffers.

4. All fills, except fills for the purpose of shoreline restoration, must be designed:

   a. To be the minimum size necessary to implement the allowed use or modification.

   b. To fit the topography so that minimum alterations of natural conditions will be necessary.

   c. To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

5. Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

6. A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the latest edition of the Stormwater Management Manual for Eastern Washington (2004) or approved equivalent, shall be provided for all proposed fill activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

## 6.5 SHORELINE RESTORATION AND ENHANCEMENT

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G. Policies

1. Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, and/or U.S. Fish and Wildlife Service.
2. Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.
3. Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the City or other entities.
4. Develop application processing guidelines that will streamline the review of restoration-only projects.
5. Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

H. Regulations

1. Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non-native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.
2. Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.
3. All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.
4. Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
5. Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.
6. Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

## 6.6 SHORELINE STABILIZATION

I. Policies

1. Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.

2. Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.

3. Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.

4. Allow new or expanded structural shoreline stabilization only where demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.

5. Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

J. Regulations

1. New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.

   a. Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

   b. New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.

2. New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.

3. All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

4. New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows

   a. To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

   b. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

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

      ii. Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site

drainage improvements, are not feasible or not sufficient.

iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.

c. In support of water-dependent development when all of the conditions below apply:

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

ii. Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.

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

d. To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient to adequately address erosion causes or impacts.

5. New hard structural shoreline stabilization measures shall not be authorized, except when a report confirms that that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

6. An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

a. For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

b. Replacement shall be regulated as a new shoreline stabilization measure, except for the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

c. Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

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d. Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

7. Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

   a. Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

   b. If within a three-year time period, more than 50 percent of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

   c. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

   d. The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

   e. Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

8. Structural shoreline stabilization design and construction standards:

   a. Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

   b. Stairs or other water access measures may be incorporated into shoreline stabilization measures, but shall not extend waterward of the measure or the OHWM.

   c. All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

9. In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

   a. For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

      i. An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

      ii. An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

      iii. An assessment of alternative measures to shoreline stabilization.

iv. Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

v. Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

b. For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

   i. An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

   ii. An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

   iii. An assessment of alternative measures to shoreline stabilization.

   iv. An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

   v. Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

   vi. The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

c. For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

   i. Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

   ii. Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

# 7. Administration and Permitting

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## 7.1 GENERAL COMPLIANCE

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RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

## 7.2 ADMINISTRATIVE AUTHORITY AND RESPONSIBILITY

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A. SMP Administrator

The City shall designate an SMP Administrator, which shall be the Palouse Mayor or his or her designee. The SMP Administrator is hereby vested with the authority to:

1. Administrate this SMP.

2. Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.

3. To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.

4. Make field inspections as needed, and prepare or require reports on shoreline permit applications.

5. Make written recommendations to the Board of Adjustment, Planning Commission and City Council as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustment regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and City Council.

6. Advise interested persons and prospective applicants as to the administrative procedures and related components of this SMP.

7. Determine and collect fees for all necessary permits as provided in City ordinances or resolutions. The determination of which fees are required shall be established by resolution of the City Council.

8. Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

B. SEPA

The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Palouse Municipal Code.

C. Board of Adjustment

The Board of Adjustment is authorized to:

1. Grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.

2. Decide on appeals of administrative decisions issued by the Administrator of this SMP.

D. Planning Commission

The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

E. City Council

The Palouse City Council is authorized to:

1. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

2. Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.



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## 7.3 ADMINISTRATION

A. This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27. In addition to the requirements of the Act, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

B. Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of the Palouse Municipal Code 17.04.130 (Administration and Enforcement) and Section 7.6 (Shoreline Permits and Exemptions) of this Master Program.

C. Shoreline Variances shall be processed in the same manner as a variance from the City's zoning code and shall be subject to all applicable provisions of Palouse Municipal Code 17.04.130 (Administration and Enforcement) and 17.04.100 (Board of Adjustment) and Section 7.6 (Shoreline Permits and Exemptions) of this Master Program.

D. Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within thirty (30) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).

E. The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

## 7.4 ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. The City of Palouse and/or Ecology is authorized to enforce the provisions of this Chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

B. When enforcement is undertaken by the City, this Program shall also be enforced by the means and procedures set forth in the Palouse Municipal Code.

1. The SMP Administrator shall be the administrative official for enforcement.

2. If the administrative official finds that any provision of this title is being violated, the shall notify in writing the person responsible for such violation, indicating the nature of the violation, and the action necessary to correct it. The administrative official shall order discontinuance of illegal use of land, buildings, or structures; discontinuance of any illegal work being done; or shall take any other action authorized by the PMC to ensure compliance with or to prevent violation of its provisions.

3. The SMP Administrator shall make available to the public application materials for approvals and amendments.

4. Any person, firm, company, corporation or organization that violates or otherwise fails to comply with the provisions of this SMP and the PMC shall be subject to a civil penalty of no more than $XXX for each violation. Each day's continuance thereof shall be deemed a



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separate and distinct violation.

5. The existence of a civil penalty or pendency of any proceedings to enforce and collect such a civil penalty under the provisions of this SMP and the PMC shall not be construed to affect the right of the city to proceed with the enforcement of the provisions of this title by other civil proceedings, either at law or equity in any court of competent jurisdiction. Compliance may be enforced by injunctional order at the suit of the city or by an owner or owners of land affected or anyone who may otherwise demonstrate that standing has been conferred upon them by law.
6. All court costs shall be paid by the party in violation of this title.
7. The city, at its option, may also seek revocation of any permit or license previously granted pursuant to the provisions of this title.
8. No permit, conditional use permit, variance, or rezone shall be issued, nor shall any action be taken on proceedings before the board of adjustment or planning commission, unless or until all charges and fees have been paid in full. See the fee schedule set by Palouse City Council.

C. When enforcement has been attempted by the City and the offender has not come into compliance, Department of Ecology will provide support to the City by helping enforcing the regulations of the SMP.

## 7.5 SHORELINE ACTIVITY TRACKING

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A. Tracking

The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

1. New shoreline development
2. Shoreline variances and the nature of the variance
3. Compliance issues
4. Net changes in impervious surface areas, including associated stormwater management
5. Net changes in fill or armoring
6. Net change in linear feet of flood hazard structures
7. Net changes in vegetation (area, character)

B. No Net Loss Report

Using the information collected in Subsection (A), a no net loss report shall be prepared every eight years as part of the City's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Shoreline Analysis Report, changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

## 7.6 SHORELINE PERMITS AND EXEMPTIONS

A. Noticing Requirements

1. Applicants shall follow the noticing requirements of the City. At a minimum, the City shall provide notice in accordance with WAC 173-27-110, and shall be consistent with noticing requirements in the Palouse Municipal Code.

2. Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

B. Exemptions from a Substantial Development Permit - Application and Interpretation

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

2. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

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

4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

5. The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

C. Exemptions Listed

1. The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter or Statement of Exemption, as provided for in Subsections (B) and (D) of this Section.
2. Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.
3. Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:
   a. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it



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conducts a remedial action under chapter 70.105D RCW.

b. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

c. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

d. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

e. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

4. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.

5. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

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D. Letter or Statement of Exemption

1. Letters of Exemption.

a. A required Letter of Exemption shall be issued by the City when a development application is determined to meet the listed criteria for an exemption and the development is required to obtain a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

b. The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a summary of the City's analysis of the

consistency of the project with this SMP and the SMA. The Letter of Exemption shall be sent to the applicant and the Department of Ecology.

2. Statement of Exemption.

   a. The City may grant or deny requests for Statements of Exemption from the Shoreline Substantial Development Permit requirement. The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.

   b. Statements of Exemption shall be obtained by applicants whose projects meet any of the exemptions listed in Subsection 18.04.306(C), and which may alter or disturb the ground or vegetation. The Statement of Exemption shall be sent to the applicant and the Department of Ecology.

3. Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

E. Permit application submittal requirements

1. Shoreline applications are classified as follows:

   a. Shoreline Substantial Development Permit
   b. Shoreline Conditional Use Permit
   c. Shoreline Variance
   d. Shoreline Exemption

2. Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the City.

3. The contents of permit applications must be consistent with WAC 173-27-180 and Palouse Municipal Code.

4. Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

5. The SMP Administrator may require additional specific information if required by the nature of the proposal or the presence of sensitive ecological features, to ensure compliance with other local requirements or the provisions of this SMP.

6. At the time of application, the applicant must pay the application fee.

F. Shoreline Substantial Development Permit

1. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 7.6(B) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 1.5 (Applicability).

2. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

   a. The policies and procedures of the SMA;



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b. The provisions of WAC 173-27; and

c. This SMP.

3. The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

4. Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

G. Shoreline Conditional Use Permit

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

1. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Board of Adjustment and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Chapter 17.04.100 PMC (Board of Adjustment).

2. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

3. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

4. Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates all of the following:

   a. That the proposed use is consistent with the policies of RCW 90.58.020 and this SMP;

   b. That the proposed use will not interfere with the normal public use of public shorelines;

   c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP;

   d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

   e. That the public interest suffers no substantial detrimental effect.

5. In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

H. Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and PMC Chapters 17.04.100(C) (Board of



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Adjustment to Hear and Decide Variances) and 17.04.100(D) (Hearings).

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2. Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW 90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest shall suffer no substantial detrimental effect.

3. Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;
   b. That the hardship described in Subsection (a) is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP, and not, for example, from deed restrictions or the applicant's own actions;
   c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and SMP and will not cause adverse impacts to the shoreline environment;
   d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
   e. That the variance requested is the minimum necessary to afford relief; and
   f. That the public interest will suffer no substantial detrimental effect.

4. Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in this SMP precludes all reasonable use of the property;
   b. That the proposal is consistent with the criteria established under Subsection (3)(b) through (3)(f); and
   c. That the public rights of navigation and use of the shorelines will not be adversely affected.

5. In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

I. Ecology Review Procedures Applicable to all Shoreline Permits

All applications for a permit or a permit revision shall be submitted by the City to Ecology upon a final decision by the City consistent with WAC 173-27-130 (Filing with department), and then processed by Ecology consistent with WAC 173-27-190 (Permits for substantial development, conditional use, or variance) and WAC 173-27-200 (Department review of conditional use and variance permits).

J. Time Limits

Construction and activities authorized by a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, or Shoreline Variance are subject to the time limitations of WAC 173-27-090 (Time requirements of a permit).

K. Revisions to Permits

All applications for a permit revision shall be submitted consistent with WAC 173-27-100 (Revisions to permits).

## 7.7 NON-CONFORMING USES, STRUCTURES, LOTS

A. Nonconforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable City regulations.

B. Pre-existing Legal Residential Uses. Notwithstanding Subsections (C) to (E) of this Section, the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Master Program

1. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

2. The City shall allow redevelopment, expansion, or change with the class of occupancy of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

3. Pre-existing legal residential structures that are damaged or destroyed may be replaced if done so in the same location and dimensions as existed before the damage occurred if restoration begins within one year of the date the damage occurred. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the mayor may grant an extension of time for up to six additional months.

4. For purposes of this Section, “appurtenant structures” means garages, sheds, and other legally established structures. “Appurtenant structures” does not include bulkheads and other shoreline modifications or over-water structures.

5. Nothing in this Section shall:

   a. Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

   b. Affect the application of other federal, state, or City requirements to residential structures.

C. Non-conforming Uses



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1. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.

2. If a nonconforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use.

   a. When a nonconforming use is discontinued for one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.

   b. If said nonconforming use is a single-family dwelling which is discontinued for a period of one year or longer, it shall not be subject to the restrictions of the zone classification if the lapse in use is occasioned by the good faith, continuing effort to sell said building for use as a single-family dwelling.

~~C.~~D. Non-conforming ~~and~~ Structures

~~1.~~ ~~Lots, s~~Structures~~, and uses~~ that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial

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1. ~~e~~establishment but, due to revision or amendment of this Master Program, have become noncompliant are nonconforming uses that may continue, without regard to ownership changes, so long as in compliance with this Program. A use of property that is unlawful under other local, state, or federal laws shall not be deemed a nonconforming use.

~~2. Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a nonconforming use.~~

~~3. If a nonconforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the nonconforming use. The mere presence of a structure shall not constitute the continuance of a nonconforming use.~~

~~a. When a nonconforming use is discontinued for one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.~~

~~b. If said nonconforming use is a single-family dwelling which is discontinued for a period of one year or longer, it shall not be subject to the restrictions of the zone classification if the lapse in use is occasioned by the good faith, continuing effort to sell said building for use as a single-family dwelling.~~

~~D.~~E. Non-conforming Lots

1. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment designation and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including setbacks, dimensional standards, and lot coverage requirements to the greatest extent feasible.

2. Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Reductions of other setbacks should be considered first before reducing the buffer from the OHWM. Development proposed inside required buffers shall go through mitigation sequencing and shall require a mitigation plan.

~~E.~~F. Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

1. Alteration, expansion, or restoration of nonconforming structures and uses are not allowed except as set forth in this Master Program and in the Palouse Municipal Code.

2. Any nonconforming building, structure, or sign which is less than 50 percent destroyed or damaged by fire, explosion, or other natural causes, may be restored. Such restoration must begin no more than six months from the date of such destruction, and shall not contribute to it being any more in non-conformity than it was prior to being damaged. Up to six additional months, for a total of one year, may be given by the City to respond to circumstances outside the property owner's control.

3. Any nonconforming structure which is moved any distance must be brought into further conformance with this Master Program and the SMA.

4. A structure for which a variance has been issued shall be considered a legal nonconforming structure, and the requirements of this Section shall apply as they apply



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to pre-existing nonconforming structures and uses.

5. Legally existing structures 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.

6. Alteration or expansion of a nonconforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

## 7.7 DEBRIS ACCUMULATION AND OBSTRUCTION

Pursuant to Chapter 7.48 RCW, Chapter 9.66 RCW, and Chapter RCW 90.58, the following activities shall be prohibited in shoreline jurisdiction:

A. The outside storage within the shoreline jurisdiction of abandoned, discarded or unused objects or equipment, excluding operational farm-related equipment or material; including but not limited to tires, household furniture, stoves, refrigerators and freezers.

B. The outside accumulation within the shoreline jurisdiction of two or more cubic yards of waste, rubbish and trash, including but not limited to bottles, cans, glass, wire, broken crockery, broken plaster and other similar abandoned, discarded or unused material, unless kept in covered bins or receptacles.

C. The presence of any unattached vehicle or boat parts which meet at least three of the following requirements:

1. Is three years old or older;

2. Is extensively damaged, such damage including but not limited to any of the following: a broken window or windshield or missing wheels, tires, motor, or transmission;

3. Is apparently inoperable; and

4. Has a fair market value equal only to the value of the scrap in it.

D. An act, or omitting to perform a duty, which act or omission either:

1. Annoys, injures or endangers the comfort, repose, health or safety of others;

2. Unlawfully interferes with, befouls, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or

3. In any way renders other persons insecure in life, or in the use of property.

E. Enforcement.

1. The Palouse Police Department shall enforce this Section and shall be responsible for the abatement and removal of any junk or debris as a public nuisance.

2. Subject to the provisions of PMC 8.36.050, the cost of abatement and removal of the offending debris or part thereof, including the cost of administration and hearing, shall be assessed against the offender.



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## 7.8 AMENDMENT OF SHORELINE MASTER PROGRAM

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A. Purpose of Amendment.

This SMP carries out the policies of the Shoreline Management Act for the City of Palouse. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

1. Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and
2. Assure consistency of this SMP with the City's codes and development regulations adopted under Chapter 36.70A RCW, if applicable, and other local requirements.

B. Effective Date.

This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

C. Amendment process.

1. Future amendments to this SMP may be initiated by any of the following:
   a. Any person or group with an interest in the proposed amendment;
   b. The Planning Commission
   c. The City Council.
2. Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made on forms specified by the City. Such applications shall contain information specified in the City's procedures for regulation amendments and information necessary to meet minimum public review procedures.
3. The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.
4. Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the City Council, who shall approve or deny the proposed amendment following their open record hearing.
5. Prior to approval, the City shall make a finding that the amendment would accomplish (a) or (b), and must accomplish (c):
   a. The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or
   b. The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and
   c. This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).
6. After approval or disapproval of a SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.

# Appendix A: Definitions

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## A

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

**Accessory dwelling unit**. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

**Accessory use or structure**. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

**Act**. The Washington State Shoreline Management Act, chapter 90.58 RCW.

**Activity**. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

**Adjacent**. To be nearby and not necessarily abutting.

**Administrator or SMP Administrator**. The City designee charged with the responsibility of administering the City of Palouse SMP.

**Advance mitigation**. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

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

**Agricultural equipment and agricultural facilities**. Includes, but is not limited to:

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

**Agricultural land**. Those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

**Agricultural related industries**. Agricultural related industries include:

1. Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.
2. Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.
3. Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

**Agricultural stands**. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

**Alkali wetlands**. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

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

**Amendment**. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

**Appeal**. A request for a review of the interpretation of any provision of this chapter or a request for a variance.

**Applicant**. A person who files an application for permit under this chapter and who is either the owner of the land on which that proposed activity would be located, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

**Approval**. An official action by the City agreeing to submit a proposed SMP or amendments to the

Department of Ecology for review and official action pursuant to this Chapter; or an official action by the

Department of Ecology to make the City's SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

**Aquaculture**. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

**Aquifer**. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**Aquifer, sole source**. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

**Associated wetlands**. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

## B

**Base flood or 100-year flood**. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the City of Palouse; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City of Palouse. Designations of base flood areas on flood insurance map(s) always include the letters A or V.

**Best management practices.** Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment; minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands; protect trees and vegetation designated to be retained during and following site construction; and provide standards for proper use of chemical herbicides within critical areas.

**Board of Adjustment**. The City of Palouse Board of Adjustment.

**Boat launch**. An area that is developed for boating ingress and egress from the water.

**Boating facilities**. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

**Bog**. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

**Breakwater**. A fixed or floating off-shore structure that protects the shore from wave action or currents.

**Buffer**. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

1. Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;
2. Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the hazardous condition;
3. Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

**Bulkhead**. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

## C

**Channel migration zone or CMZ**. The area along a river within which the channel)s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

**Clearing**. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

**Commercial use**. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

**Compensation project**. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

**Compensatory mitigation**. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

1. Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;
2. Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;
3. Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and
4. Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

**Comprehensive master program update**. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

**Comprehensive Plan**. The officially adopted document and any amendments or supplements thereto adopted by the City of Palouse, which sets forth policies and standards for determining the best use of land and other resources of the City.

**Conditional use**. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

**Conservation easement**. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

**Creation**. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

**Critical aquifer recharge area (CARA)**. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

**Critical areas**. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation areas, (d) frequently flooded areas, and (e) geologically hazardous areas.

**Critical habitat**. Habitat necessary for the survival of endangered, threatened, rare, sensitive or monitor species.

**Cumulative impact**. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

## D

**Data maps**. The series of maps maintained by the City or its referenced repository for the purpose of graphically depicting the boundaries of critical areas.

**Developable area**. A site or portion of a site that may be utilized as the location of development.

**Development**. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

1. Interior building improvements that do not change the use or occupancy;
2. Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;
3. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and
4. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; and individual utility service connections.
5. ~~4.~~ Dismantling or removing structures if there is no other associated development or re-development.

**Development permit**. Any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.

**Development regulation**. Any controls placed on development or land use activities by the City of

Palouse, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

**Dock**. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

**Dredging**. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 6.3, is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

## E

**Ecological functions or shoreline functions**. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

**Ecologically intact**. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

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

**Enhancement**. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

**Erosion**. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

**Erosion hazard areas**. At least those areas containing soils identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard

and may experience significant erosion (WAC 365-190-120(5)). Erosion hazard areas also include channel migration zones.

**Excavation**. The mechanical removal of earth materials.

**Exempt**. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

## F

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

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

1. The action provides a reasonable likelihood of achieving its intended purpose; and
2. The action does not physically preclude achieving the project's primary intended legal action.

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

**Federal Emergency Management Agency (FEMA)**. The agency that oversees the administration of the National Flood Insurance Program.

**Feedlot**. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

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

**Fish and wildlife**. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

**Fish and Wildlife Habitat Conservation Areas**. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Section 5 of Appendix B.

**Fish habitat**. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

**Float**. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or

diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

**Flood, Flooding**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

**Flood control**. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

**Flood insurance map**. The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and include the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

**Flood Insurance Study**. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

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

**Floodway**. The area, as identified in a master program, that either:

1. Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or
2. Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

**Forest practices**. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

**Frequently flooded area**. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

**Functions and values**. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and

aquatic food chains reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

## G

**Geologically hazardous areas**. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

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

**Grade**. The vertical location of the ground surface.

1. Natural grade is the grade as it exists or may have existed in its original undisturbed condition.
2. Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.
3. Rough grade is a stage where grade conforms approximately to an approved plan.
4. Finish grade is the final grade of the site which conforms to an approved plan.
5. Average grade level is 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 water, average grade level shall be the elevation of the 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.

**Grading**. Excavation or fill or any combination thereof, including by not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

**Groin**. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also “Weir.”

**Groundwater**. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

**Guidelines**. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

## H

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

**Hard stabilization**. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

**Hazard areas**. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

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

**Height**. 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

**High intensity land use**. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, some agricultural practices, and commercial and industrial land uses.

**Houseboat or floating home**. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

**Hydric soil**. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

## I

**Impervious surface**. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**Industrial**. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

**Infiltration**. The downward entry of water into the immediate surface of soil.

**In-kind compensation**. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

**In-stream structures**. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, i

rrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

**Inter-Rill**. Areas subject to sheet wash.

**Isolated wetlands**. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

## J

**Jetty**. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

## L

**Landslide hazard areas**. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. For a complete definition, see WAC 365-190-120(6).

**Livestock**. Animals that are raised for use and profit.

**Lot**. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

## M

**Maintenance, normal**. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

**Manufactured home**. 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.”

**Master Program**. The comprehensive shoreline master program for the City of Palouse, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

**Mature forested wetland**. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

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

**Mining**. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

**Mitigation**. A negotiated action involving the avoidance, reduction or compensation for possible adverse impacts. This includes the use of any or all of the following actions that are listed in descending order of preference:

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

2. 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;

3. Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;

4. Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;

5. Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;

6. Monitoring the impact and taking appropriate corrective measures.

**Mixed-use project**. A use that contains a mix of water-dependent and nonwater-oriented uses or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

**Monitoring**. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shorelines. Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

**Moorage facility**. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

**Must**. A mandate; the action is required.

## N

**Native vegetation**. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

**No net loss of ecological function**. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

**Nonconforming lots**. An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this 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 City of Palouse and so long as development conforms to all other requirements of this Master Program and the Act.

**Nonconforming Use**. An existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program,-but which does not conform to present use regulations due to subsequent changes to the master program.~~A use, building, and/or structure not in compliance with any one or all of the provisions contained in this title, which existed legally at the time of the adoption of thistitle.~~

**Non-conforming Structure/Development.** A building, structure or land use which was lawfully established, existing and maintained at the effective date of the provisions of this Chapter but which, because of the application of this Chapter to it, is no longer fully consistent with present regulations

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such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.no longer conforms to the regulations prescribed in this Chapter for the use district or shoreline environment designation in which it is located.

**Nonwater-oriented uses**. Those uses that are not water-dependent, water-related, or water-enjoyment.

## O

**Off-site compensation**. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

**On-site compensation**. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

**Ordinary high water mark (OHWM)**. That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

## P

**Permeability**. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

**Permit**. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

**Permit, Shoreline**. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under Chapter 90.58 RCW.

**Pier**. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also “Dock.”

**Potable water**. Water that is safe and palatable for human consumption.

**Preservation**. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

**Priority Habitat and Species (PHS)**. As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including state endangered, threatened, sensitive, and candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. The PHS list is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173-26-020(28-29))

**Project area**. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

**Preferred uses**. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single-family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

**Prohibited.** Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation or Town zoning are not considered appropriate and are not allowed.

**Provisions**. Policies, regulations, standards, guideline criteria or environment designations.

**Public access**. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

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

**Public Trust Doctrine**. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

## Q

**Qualified professional**. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

1. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;
2. A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;
3. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;
4. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

## R

**Recharge**. The process involved in the absorption and addition of water to groundwater.

**Recharge area**. An area in which water is absorbed and added to the groundwater reservoir.

**Recreation**. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

**Recreational Development.** Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

**Recreational vehicle**. A vehicle which is:

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.

**Re-establishment**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

**Rehabilitation**. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

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

**Residential**. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

**Restore, restoration, or 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.

**Rill**. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

**Rip-rap**. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

## S

**Salmonid**. A member of the fish family salmonidae.

**Sediment**. The fine grained material deposited by water or wind.

**Seeps**. A spot where water oozes from the earth, often forming the source of a small stream.

**Seismic Hazard Areas**. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

**SEPA**. Washington State Environmental Policy Act, Chapter 43.21C RCW.

**Setback**. The distance in feet as measured from a lot line to the sill line of a building, or the closest point of a structure to the lot line. In the case where there is a leased area within a parcel of land, the setback shall be measured from the lease line to the sill of a building, or the closest point of a structure to the lease line.

**Shall**. A mandate; the action must be done.

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

**Shorelines**. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

**Shoreline areas and shoreline jurisdiction**. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

**Shoreline Hearings Board**. A six member quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

**Shorelines of statewide significance**. The following shorelines of the state are shorelines of statewide significance:

1. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
2. Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer; and
3. Those shorelands associated with 1 and 2, above.

**Shorelines of the state**. Total of all "shorelines" and "shorelines of statewide significance" within the state.

**Shoreline environment designations**. Classification of shorelines established by this SMP in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

**Shoreline modifications**. 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, grading, or application of chemicals.

**Shoreline stabilization**. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

**Should**. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

**Significant adverse effect/impact.** Any noticeable or measureable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

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

**Slide**. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

**Slope**. The inclination of the surface of the land from the horizontal.

**SMA**. The Washington State Shoreline Management Act, Chapter 90.58 RCW.

**SMP Administrator**. See “Administrator.”

**Soft stabilization**. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

**Soil survey**. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

**Special flood hazard areas**. The land in the flood plain within an area subject to a one percent or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

**Species**. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

**Species, endangered**. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

**Species of local importance**. Those species of local concern designated by the City due to their population status or their sensitivity to habitat manipulation.

**Species, Priority**. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

**Species, Threatened**. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

**Species, Sensitive**. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

**State master program**. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

**Stockyards**. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

**Stream**. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

**Structure**. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

**Substantial damage**. 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% of the market value of the structure before the damage occurred.

**Substantial development**. Any development of which the total cost or fair market value exceeds $~~6,416~~8,504, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be dusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

**Substantial improvement**. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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 does not, however, include either:

(1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement or building official and are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure."

**Substantially degrade**. To cause significant ecological impact.

## T

**Transportation**. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

## U

**Unavoidable Impacts**. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

**Upland**. The area above and landward of the OHWM.

**Use**. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

**Utility**. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

## V

**Vadose zone analysis**. The characterization of the soil profile above the water table.

**Variance**. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

**Vegetation**. Any and all organic plant life growing at, below, or above soil surface.

**Vernal pools**. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

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

**Visitor-serving uses**. Those uses or businesses that would not be located in the City of Palouse if it were not for the presence of tourists or visitors to the region.

## W

**Water-dependent use**. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

**Water-enjoyment use**. 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**. Any water-dependent, water-related, or water-enjoyment use.

**Water table**. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

**Water quality**. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

1. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
2. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

**Watershed restoration plan**. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act.

**Watershed restoration project**. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

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

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

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

**Waterward**. Any point located on the water side from the OHWM.

**Weir**. A structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

**Well**. A bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

**Wetlands**. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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. However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

**Wetlands, high quality**. Those wetlands that meet the following criteria:

1. No, or isolated, human alteration of the wetland topography;

2. No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration;

3. Low cover and frequency of exotic plant species;

4. Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;

5. If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and

6. No known major water quality problems.

**Wetlands, isolated**. Those wetlands that are outside of and not contiguous to any 100-year flood plain of a lake, river, or stream, and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

**Wetland buffer**. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

**Wetland mitigation bank**. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

**Wetland edge**. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

**Wetland functions**. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other function including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

# Appendix B: ——Shoreline Critical Areas Policies and Regulations

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## 1. Policies

A. Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

B. Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

C. Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

## 2. General Regulations

A. Purpose, intent and applicability.

1. The purpose of this Appendix B is to designate, classify and protect the functions and values of critical areas within shoreline jurisdiction in a manner consistent with state law while allowing for reasonable use of private property. By adopting this Appendix to the Master Program, the City of Palouse acknowledges that critical areas provide a variety of important biological and physical functions that benefit the community and its residents, or that they may pose a threat to human safety or property. Critical areas regulated by this Appendix B include:

   a. Wetlands as designated in Section 3 of this Appendix,
   b. Critical aquifer recharge areas as designated in Section 4 of this Appendix,
   c. Fish and wildlife habitat conservation areas as designated in Section 5 of this Appendix,
   d. Frequently flooded areas as designated in Section 6 of this Appendix, and
   e. Geologically hazardous areas as designated in Section 7 of this Appendix.

2. All areas within the City's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Appendix B.

3. The critical area overlay zone in shoreline jurisdiction consists of that area within 250 feet of designated wetlands and critical wildlife habitat. Aquifer recharge areas, geologically hazardous areas (25-foot buffer) and frequently flooded areas (with Zone A or AE as shown on National Flood Insurance Program maps) are also included. Any development proposed on a parcel of land within shoreline jurisdiction and the critical area overlay zone shall be subject to project review as required in this Appendix B unless specifically exempted.

B. Data Maps.

1. Critical areas shall be designated on a series of data maps and contain the best available graphic depiction of critical areas. These maps are for information and illustrative purposes only and are not regulatory in nature. Copies of these maps shall be available for public reference at City Hall.

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2. The critical areas data maps are intended to alert the development community, appraisers, current and prospective property owners of a potential encounter with a use or development limiting factor based on the natural systems. The presence of a critical area or resource designation on the data maps is sufficient foundation for the SMP Administrator to order an analysis of the factor(s) identified prior to acceptance of a development application as being complete and ready for processing under the applicable provisions, sections, and chapters of the Palouse Municipal Code.

3. Interpretation of Data Maps.

   a. The SMP Administrator will interpret data maps. An affected property owner or other party with standing has a right to appeal the administrative determination to the City Council.

   b. The data maps are to be used as a general guide to the location and extent of critical areas. Critical areas indicated on the data maps are presumed to exist in the locations shown and are protected under all the provisions of this Appendix B. The exact location of critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definitions found in this Master Program. All development applications are required to show the boundary(ies) of all critical areas on a scaled drawing prior to the development application being considered "complete" for processing purposes.

4. Application of Data Maps. The conclusion of the SMP Administrator that a parcel of land or a part of a parcel of land that is the subject of a proposed development application is within the boundary(ies) of one or more critical areas as shown on the data maps, shall serve as cause for additional investigation and analysis to be conducted by the applicant. The site-specific analysis shall be limited to those critical areas indicated on the data maps. In the event of multiple designations, the City will address each subject matter independently and collectively for the purpose of determining development limitations and appropriate mitigating measures.

C. Permitted, conditional and prohibited uses.

Uses allowed by Shoreline Exemption, a Shoreline Substantial Development Permit, or Shoreline Conditional Use Permit, or uses altogether prohibited in the critical areas overlay zone shall be the same as those allowed in the underlying zoning district and environment designation as established in this SMP.

D. General Regulations.

1. Shoreline permits or shoreline exemptions, and any other City-required permits, for activities within the critical areas overlay zone and shoreline jurisdiction, as defined on the data maps (Section 2.B of this Appendix B), shall be subject to review under the provisions of this Appendix B, excepting: (1) those activities specifically exempted from a critical areas report in Subsection 2.D(3); and (2) agricultural activities. As part of this review, the SMP Administrator shall:

   a. Verify the information submitted by the applicant;

   b. Evaluate the project area and vicinity for critical areas;

   c. Determine whether the proposed project is likely to impact the functions or values of critical areas; and

   d. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

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2. Critical Areas Report.

   a. For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply the most current, accurate, and complete scientific and technical information available as part of its analysis. Critical areas reports must contain the following:

      i. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

      ii. A copy of the site plan for the development proposal including:

         a) A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

         b) In the case of commercial or industrial development, a description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations. No stormwater plan is required for single-family residential construction;

      iii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

      iv. Identification and characterization of all critical areas, wetlands, waterbodies, and buffers adjacent to the proposed project area;

      v. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

      vi. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

      vii. An analysis of site development alternatives including a no development alternative;

      viii. A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 4.3(B)(4) to avoid, minimize, and mitigate impacts to critical areas;

      ix. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Mitigation Plan Requirements Subsections 4.3(B)(6) and 2.E(4) of this Appendix B, including, but not limited to:

         a) The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

         b) The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.

      x. A discussion of the performance standards applicable to the critical area and proposed activity;

      xi. Any additional information required for the critical area as specified in the corresponding section.

   b. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

3. The following activities shall be allowed in critical areas and their buffers without a critical areas report, provided they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area:

   a. Conservation or preservation of soil, water, vegetation, fish, shellfish and other wildlife;

b. Outdoor recreational activities which do not involve disturbance of the resource or site area, including, for example, fishing, hunting, bird watching, hiking, horseback riding and bicycling;

c. Harvesting wild crops in a manner that is not injurious to the natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops or alteration of the resource by changing existing topography, vegetation, water conditions or water sources;

d. Education, scientific research and use of nature trails;

e. Normal and routine maintenance of legally constructed irrigation and drainage ditches;

f. Normal and routine maintenance, repair or operation of existing serviceable structures, facilities or improved areas, not including expansion, change in character or scope or construction of a maintenance road;

g. Minor modification (such as construction of a patio, balcony or second story) of existing serviceable structures where the modification does not adversely impact the functions of the critical area.

h. Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or c) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

i. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the City, provided that their use shall be restricted in accordance with state Department of Fish and Wildlife Management Recommendations and the regulations of the state Department of Agriculture and the U.S. Environmental Protection Agency;

j. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

k. Agricultural Ditch Cleaning and Construction. Historically, agricultural landowners have cleaned out drainages on their property for flood control and cleaning out drain tiles. This practice can continue on existing (prior to December 23, 1985) ditches, but a floodplain evaluation is required if a floodplain is present and a wetland evaluation is required if a wetland (not farmed) is present. Construction of new drainage ditches or the relocation of existing drainage ditches through farmed or non-farmed wetlands requires permitting.

E. Protection of Critical Areas.

1. Any action taken pursuant to this Appendix B shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific and technical information available.

2. All actions and developments shall be designed and constructed in accordance with Mitigation Sequencing, Subsection 4.3(B)(4) to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.to

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F. Mitigation Requirements

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Appendix B, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the most current, accurate, and complete scientific and technical information available in accordance with an approved critical area report, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

4. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the critical area report. The mitigation plan shall include:

   a. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

      i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

      ii. A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

      iii. An analysis of the likelihood of success of the compensation project.

   b. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Section have been met.

   c. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

      i. The proposed construction sequence, timing, and duration;

      ii. Grading and excavation details;

      iii. Erosion and sediment control features;

      iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

      v. Measures to protect and maintain plants until established.

      These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

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d. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, and 5 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

e. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5. Innovative Mitigation.

a. The City may encourage, facilitate, and approve innovative mitigation projects that are based on the most current, accurate, and complete scientific and technical information available. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

i. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

ii. The group demonstrates the organizational and fiscal capability to act cooperatively;

iii. The group demonstrates that long-term management of the habitat area will be provided; and

iv. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

b. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

G. Review Criteria

1. Any alteration to a critical area, unless otherwise provided for in this Section, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

a. The proposal minimizes the impact on critical areas in accordance with the mitigation sequencing requirements in Subsection 4.3(B)(4);

b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

c. The proposal is consistent with the general purposes of this Section and the public interest;

d. Any alterations permitted to the critical area are mitigated in accordance with the mitigation requirements in Subsection 2.E of this Appendix B;

e. The proposal protects the critical area functions and values consistent with the most current, accurate, and complete scientific and technical information available and results in no net loss of critical area functions and values; and

f. The proposal is consistent with other applicable regulations and standards.

2. The City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this Appendix B.

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3. Except as provided for by this Appendix B, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Subsection 4.3(B)(4) shall be denied.

H. Unauthorized Critical Area Alterations and Enforcement.

Unauthorized critical area alterations will be addressed by the SMP Administrator consistent with Section 7.4 and the following.

1. When a critical area or its buffer has been altered in violation of this Section, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Section.

2. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the most current, accurate, and complete scientific and technical information available and shall describe how the actions proposed meet the minimum requirements described in Subsection 2.G(3) below. The SMP Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

3. Minimum Performance Standards for Restoration

   a. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

      i. The historic structural and functional values shall be restored, including water quality and habitat functions;

      ii. The historic soil types and configuration shall be replicated;

      iii. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

      iv. Information demonstrating compliance with the mitigation plan requirements in Subsection 2.E(4) shall be submitted to the SMP Administrator.

   b. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

      i. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

      ii. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

      iii. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

4. Site Investigations. The SMP Administrator is authorized to make site inspections and take such actions as are necessary to enforce this Section. The SMP Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

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5. Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor. Each day or portion of a day during which a violation of this Section is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Section shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this Section. The civil penalty shall be assessed by the amount set forth in applicable City regulations.

I. Dual Jurisdiction.

If a development permit is sought for critical area property that is located partly in the City's shoreline jurisdiction, and partly in unincorporated Whitman County's shoreline jurisdiction, the SMP Administrator or designee shall coordinate the City's review of the project with the appropriate county officials.

## 3. Wetlands.

A. Delineation.

The existence of a wetland and the location of its boundary shall be determined by the applicant through the performance of a field investigation applying the methodology of the approved federal wetland delineation manual and applicable regional supplements, in accordance with WAC 173-22-035, as amended. Delineations shall be performed by a qualified wetland professional.

B. Rating.

Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14-06-030, or as amended and approved by Ecology), which contains the definitions and methods for determining if the criteria below are met: Rating categories shall be applied as the wetland exists at the time of the associated permit application. Wetland rating categories shall not change due to illegal modifications.

1. Category I wetlands are: 1) alkali wetlands; 2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over ¼ acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.
2. Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over ¼ acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.
3. Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed

in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. Category IV: wetlands have the lowest levels of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

C. Standard Wetland Buffer Widths.

The standard buffer widths in Table B.3-1 have been established in accordance with the most current, accurate, and complete scientific and technical information available. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Eastern Washington.

1. Vegetative buffers shall be measured from the edge of the wetland. The width of the buffer shall be determined according to the wetland type. The standard buffer widths are provided in Table B.3-1 below.

2. The use of the standard buffer widths requires the implementation of the measures in Table B.3-2, where applicable, to minimize the impacts of the adjacent land uses.

3. If an applicant chooses not to apply the mitigation measures in Table B.3-2, then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

4. The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetative community within the buffer zone that is deemed adequate to protect the identified critical area.

   a. If the vegetation is degraded, then revegetation may be considered with any adjustment to the buffer width.

   b. Where the use is being intensified, a degraded buffer may be revegetated to maintain the standard width.

**Table B.3-1 Wetland Buffer Requirements**

| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category I: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category I: Bogs and Wetlands of High Conservation Value | 190 ft | | | |
| Category I: Alkali | 150 ft | | | |
| Category II: Based on total score | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |
| Category II: Vernal pool | 150 ft | | | |
| Category II: Forested | 75 ft | Add 15 ft | Add 45 ft | Add 75 ft |

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| Wetland Category | Buffer width if wetland scores 3-4 habitat points | Additional buffer width if wetland scores 5 habitat points | Additional buffer width if wetland scores 6-7 habitat points | Additional buffer width if wetland scores 8-9 habitat points |
|---|---|---|---|---|
| Category III (all) | 60 ft | Add 30 ft | Add 60 ft | Add 140 ft |
| Category IV (all) | 40 ft | | | |

**Table B.3-2. Required measures to minimize impacts to wetlands**

(Measures are required, where applicable to a specific proposal)

| Disturbance | Required Measures to Minimize Impacts |
|---|---|
| Lights | Direct lights away from wetland |
| Noise | • Locate activity that generates noise away from wetland<br>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source<br>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer |
| Toxic runoff | • Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered<br>• Establish covenants limiting use of pesticides within 150 ft of wetland<br>• Apply integrated pest management |
| Stormwater runoff | • Retrofit stormwater detention and treatment for roads and existing adjacent development<br>• Prevent channelized flow from lawns that directly enters the buffer |
| Change in water regime | Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns |
| Pets and human disturbance | • Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.<br>• Place wetland and its buffer in a separate tract or protect with a conservation easement |
| Dust | Use best management practices to control dust |

D. Increased Buffer Widths.

Buffer widths may be increased if the SMP Administrator council finds, on a case-by-case basis and based upon the most current, accurate, and complete scientific and technical information available, that at least one of the following applies:

1. A larger buffer is necessary to maintain viable populations of existing species, or
2. The wetlands are used by species proposed or listed by the federal government or the state as endangered, threatened, rare, sensitive or being monitored as habitat for those species or has unusual nesting or resting sites, or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts, or
4. The adjacent land has minimal vegetative cover or slopes greater than 25 percent.

E. Buffer Averaging.

Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower-rated area.

2. The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.

3. The total area of the buffer after averaging is equal to the area required without averaging.

4. The buffer at its narrowest point is never less than either ¾ of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

F. Measurement of Wetland Buffers.

All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

G. Buffers on Mitigation Sites.

All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

H. Buffer Maintenance.

Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the monitoring period (Subsection 2.4(F)(4)(d) of this Appendix B).

I. Allowed Buffer Uses.

In addition to the uses listed in Subsection 1.2(D)(3), the following additional uses may be allowed within a wetland buffer in accordance with the review procedures of this Appendix B, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. Passive recreation facilities designed and in accordance with an approved critical area report, including:

   a. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer

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area except for spurs to viewing platforms, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

b. Wildlife-viewing structures.

2. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

3. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

4. Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

   a. No other location is feasible; and

   b. The location of such facilities will not degrade the functions or values of the wetland; and

   c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

5. Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

6. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through a wetland buffer to the OHWM of a shoreline waterbody. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

J. Compensatory Mitigation.

1. Projects that propose compensation for wetland acreage and/or functions are subject to State and/or Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of Subsection 2.F of this Appendix B and Subsection 4.3(B)(6), as well as Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06-011b, Olympia, WA, March 2006 or as amended), and Selecting Wetland

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Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

2. Wetland mitigation ratios shall be consistent with Table B.3-3.

**Table B.3-3. Wetland Mitigation Ratios**

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Wetlands with High Conservation Value | Not considered possible | Case by case | Case by case |
| Category I: Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

3. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table B.3-3, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

4. Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

5. Wetland Mitigation Banks.

   a. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

      i. The bank is certified under RCW Ch. 90.84 or WAC Ch. 173-700,

      ii. The SMP Administrator determines that the wetland mitigation bank can provide appropriate compensation for the authorized impacts, and

      iii. The proposed use of credits is consistent with the terms and conditions of the bank's certification.

   b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

   c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

6. Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

7. Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that

ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

## 4. Critical aquifer recharge areas.

A. Septic Requirements.

In areas within shoreline designation designated as high susceptibility for aquifer contamination, all uses shall be connected to the City's sewer system, except new uses on a septic system in the aquifer protection areas may be allowed with approval of the City Council.

B. Disclosure Form.

For uses within shoreline jurisdiction locating within the critical aquifer recharge area and requiring site plan review, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval.

C. General Standards.

1. Impervious surfaces shall be minimized within the critical aquifer recharge area.
2. Best management practices as defined by state and federal regulations shall be followed by commercial and industrial uses located in the critical aquifer recharge areas of shoreline jurisdiction, to ensure that potential contaminants do not reach the aquifer.
3. A spill prevention and emergency response plan shall be prepared and submitted for review and approval by the City and local fire district.

## 5. Fish and wildlife habitat conservation areas.

A. Designation

1. All areas within the shoreline jurisdiction of the City of Palouse meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include the following:
    a. Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.
        i. Federally designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service should be consulted as necessary for current listing status.
        ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the state Department of Fish and Wildlife, and those native plant species identified by the Department of Natural Resources, that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative

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management or removal of threats. State designated endangered, threatened, and

sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.

iii. A combined list of federally and state identified species having the potential to exist within the city is maintained by the City.

b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the Washington Department of Fish and Wildlife.

c. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, such as high quality native plant communities, and those with historical or cultural importance.

d. Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

e. Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.

f. Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

g. State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the state Department of Natural Resources.

h. Land Essential for Preserving Connections Between Habitat Blocks and Open Spaces.

The SMP Administrator shall be responsible for making final habitat conservation area designations in shoreline jurisdiction within the City.

2. Mapping. The approximate location and extent of habitat conservation areas are shown on the following maps, which are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

a. Department of Fish and Wildlife Priority Habitat and Species Maps;

b. Resident salmonid distribution maps contained in studies conducted by the local watershed planning unit or in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

c. Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

d. City of Palouse habitat maps.

These maps are to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

B. Critical Area Report - Additional Requirements.

In addition to the general critical area report requirements, the following elements must be met:

1. Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

2. Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

   a. The project area of the proposed activity;

   b. All habitat conservation areas and recommended buffers within 200 feet of the project area; and

   c. All shoreline areas, flood plains, and other critical areas, and related buffers within 200 feet of the project area.

3. Habitat Assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:

   a. A detailed description of vegetation on and adjacent to the project area;

   b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

   c. A discussion of any federal, state, or local special 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 the project area;

   d. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Subsection 2.F of this Appendix B; and

   e. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

4. Additional Information. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the critical area report to include:

   a. An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

   b. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

5. Waiver. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly

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demonstrate that the proposed activity is outside of the stream buffer.

C. General Requirements Pertaining to Habitat Conservation Areas.

1. Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may be altered only if the proposed activity, including associated mitigation measures, does not degrade the quantitative and qualitative functions and values of the habitat and other critical areas.

2. Non-indigenous Species Shall Not Be Introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a local, state, or federal permit or approval.

3. Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

4. Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

   a. Establishment of buffer zones;
   b. Preservation of critically important vegetation;
   c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
   d. Seasonal restriction of construction activities;
   e. Establishment of a duration and timetable for periodic review of mitigation activities; and
   f. Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

5. Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

6. Approvals shall be supported by the most current, accurate, and complete scientific and technical information available. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

7. Buffers.

   a. Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife. Specific buffers for streams are established in Subsection 5.D(3) below.
   b. Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most

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current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

c. Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

   i. It will not reduce habitat functions;

   ii. It will provide additional natural resource protection, such as buffer enhancement;

   iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

   iv. The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

d. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

8. Signs and Fencing of Habitat Conservation Areas.

a. Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

b. Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the director:

*"Habitat Conservation Area Do Not Disturb*
*Contact City of Palouse Regarding Uses and Restrictions"*

c. Fencing.

   i. As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.

   ii. The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

   iii. Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

9. Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

a. Land that is located wholly within a habitat conservation area or its buffer may not be

subdivided.

b. Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

i. Is located outside of the habitat conservation area and its buffer; and

ii. Meets the minimum lot size requirements of City's zoning code (Title 17).

c. Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

D. Development Standards for Specific Species or Habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the SMP Administrator. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and the appropriate federal agency.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet, or within one-quarter mile (1,320 feet) and in a shoreline foraging area. The SMP Administrator shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the U.S. Fish and Wildlife Service.

2. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland standards set forth in Section 3 of this Appendix B, in addition to meeting the habitat conservation area standards in this Section.

3. Streams and Stream Buffers.

a. Activities shall not degrade the functions and values of streams. Unless otherwise allowed in this Master Program, all structures and activities shall be located outside of the stream. A proposed activity may only be permitted in a stream if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the stream and other critical areas.

b. Establishment of stream buffers. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

c. Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:

i. Type S- Type S waters are shorelines of the state

ii. Type F- Type F waters are perennial or seasonal, fish-bearing waters

iii. Type Np- Type Np waters are nonfish-bearing perennial waters

iv. Type Ns- Type Ns waters are nonfish-bearing seasonal waters

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d. Standard Stream Buffers.

i. Stream buffer widths for waters in shoreline jurisdiction in each environment designation are shown in Table B.5-1. A stream shall have the required buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(e) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(f) of this Appendix B.

ii. Any tributaries of the North Fork Palouse River shall have a 50-foot standard buffer width, unless a greater width is required pursuant to Subsection 5.D(3)(d) of this Appendix B, or a lesser width is allowed pursuant to Subsection 5.D(3)(e) of this Appendix B.

iii. Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. The SMP Administrator may waive the requirement to provide a formal delineation of a stream's ordinary high water mark if compliance with these regulations can be demonstrated without that information, or if the applicant can clearly demonstrate that the proposed activity is outside of the stream buffer.

iv. Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only buffer that applies in the landward designation is that buffer which is specified for that designation and is still measured from the ordinary high water mark.

**Table B.5-1 Stream Buffers**

| Environment Designation | Shoreline Waters[1] (Type S) |
|---|---|
| All Designations | For water-dependent developments, no buffer. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting. |
| Urban Conservancy | The lesser of 100 feet or the waterward edge of an improved public road or railroad grade |
| Shoreline Residential | 20 feet |
| Shoreline Parks | *North side of Palouse River:*<br>Recreation facilities – 30 feet<br>New parking - 75 feet<br>*South side of Palouse River:* 20 feet |
| High Intensity | *West of W. Main St.:* The lesser of 60 feet or the waterward edge of the railroad grade<br>*Everywhere else:* 20 feet |

[1] Shoreline (Type S) stream buffers are based on existing conditions in each environment designation

e. Increased Stream Buffer Width. The standard buffer width shall be increased, as follows:

i. When the SMP Administrator determines that the standard width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or

ii. When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

f. Buffer width averaging. The SMP Administrator may allow the buffer width of a stream to be reduced in accordance with a critical area report only if:

i. The width reduction will not reduce stream habitat functions, including those of non-fish habitat;

ii. The width reduction will not degrade the habitat;

iii. The proposal will provide additional habitat protection;

iv. The total buffer area of each stream and lake on the development proposal site is not decreased;

v. The buffer width is not reduced by more than 25% in any one location;

vi. The buffer width reduction will not be located within another critical area or associated buffer; and

vii. The reduced buffer width is supported by the most current, accurate, and complete scientific and technical information available.

g. Stream and Stream Buffer Mitigation. Mitigation of adverse impacts to streams and their buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

h. Alternative Mitigation for Streams and Buffers. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

i. Uses and modifications allowed in stream buffers. The following uses are allowed in stream buffers provided that mitigation sequencing is demonstrated, and any adverse impacts to ecological functions are mitigated.

i. Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced buffer unless at least one of the following is met:

a) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility;

b) The proposed accessory would be located in a park or on other public lands where high-intensity, water-oriented recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses;

c) The accessory use, development or activity can be located upland of the water-dependent use; or

d) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water-dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water-dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this Section or in this SMP.

ii. Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures, including children's play structures, are allowed in shoreline buffers provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 4.3 (Environmental Protection), 4.4 (Shoreline Vegetation Conservation), 4.5 (Water Quality, Stormwater and Nonpoint Pollution), and Appendix B (Shoreline Critical Areas Policies and Regulations). The City may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

iii. Balconies and other viewing platforms. Second-floor balconies or other building projections that provide a river view and limit impervious surface to the footings may encroach into the buffer. Vegetation alteration must be minimized and mitigated.

iv. In the Shoreline Residential environment designation, new minor structures, such as play structures, picnic tables and benches, and sheds, may be located in an already-altered area of a buffer provided all of the following criteria are met:

a) The maximum total footprint is not more than two hundred (200) square feet;

b) The structure is located outside of wetlands, streams, other ecologically sensitive areas, and their associated buffers;

c) Trees or any native vegetation are not removed or adversely impacted by the structure; and

d) The structure does not require a permanent foundation.

v. Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

a) Placement of the equipment and facilities must support an existing agricultural use.

b) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

c) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

d) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

e) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

vi. Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the buffer to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this Chapter. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

## 6. Frequently flooded areas.

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Applicants for development within frequently flooded areas shall comply with provisions of the City's flood damage prevention ordinance.

## 7. Geologically hazardous areas.

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A. Buffers.

1. A minimum 25-foot buffer shall be established from the top, toe or sides of an identified geological hazard in shoreline jurisdiction (as identified by the U.S. Geological Survey and the Department of Natural Resources), including landslide hazard areas, seismic hazard areas, mine hazard areas, landfills or steep slope areas (40 percent or greater), except as specified below. The buffer may be increased if necessary to protect public health, safety

and welfare, based on information contained in the geotechnical report prepared by a qualified professional engineer.

2. Buffer zones may be decreased in size provided the geotechnical report substantiates the following findings:

   a. The proposed development will not create a hazard to the subject property, surrounding properties or rights-of-way, erosion or sedimentation to off-site properties or bodies of water.

   b. The proposal uses construction techniques that minimize destruction of existing topography and natural vegetation.

   c. The proposal mitigates all impacts identified in the geotechnical report.

B. Allowed activities.

The following activities are allowed in seismic and mine hazard areas:

1. Construction of new buildings with less than 2,500 square feet of floor area or roof area, whichever is greater, and which are not residential structures or used as places of employment or public assembly,

2. Additions to existing single-story residences that are 250 square feet or less,

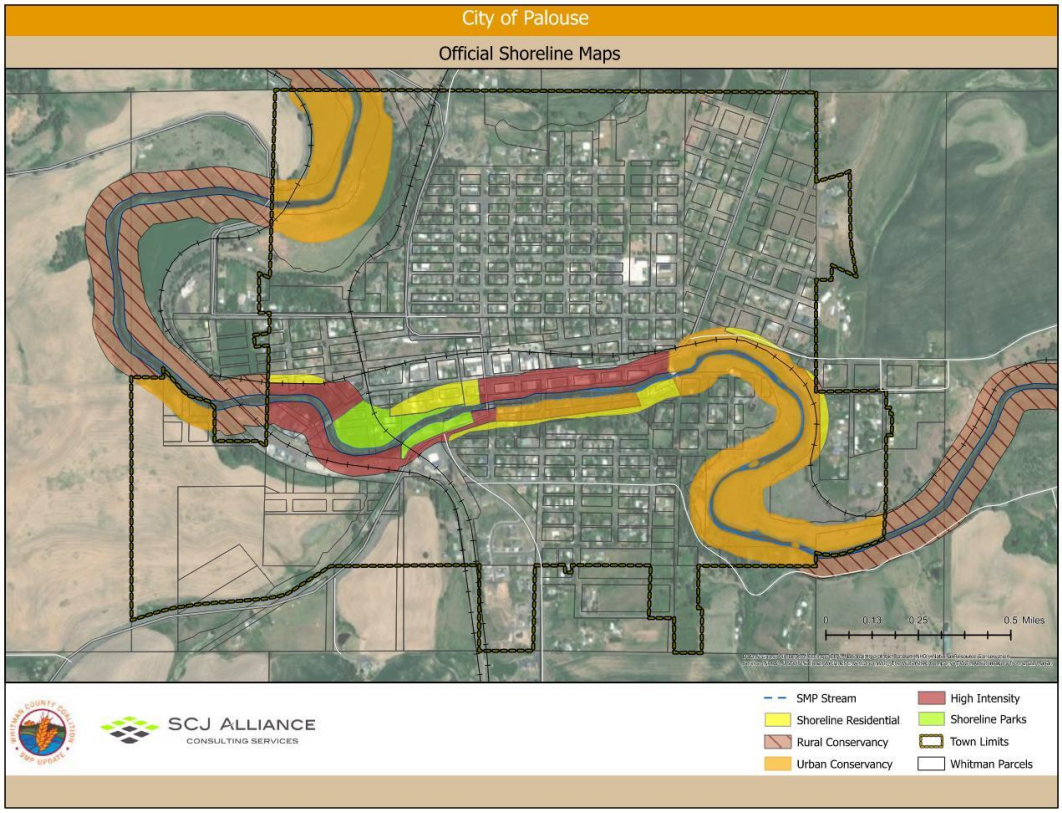
3. Installation of fences.

C. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of Subsections (A)(1) and (2) during the life of the development is prohibited.

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# Appendix C: Shoreline Environment Designation Map



# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Malissa Paulsen<br>SCJ Alliance | City of Palouse | |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended floating **on-water residences** provisions | Pg. 38, Ch 5.10, A, 5. Floating homes and other over-water homes, including liveaboards are prohibited. | No Action Needed. |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | Pg. 53, Ch. 7.6, C references RCW 90.58.147 | Could add DOE example language for clarity **Added Ch 7.6, C, 2** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | Pg. 53, Ch. 7.6, C does not specify threshold exemption, but no docks allowed in City. | No Action Needed. |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to $8,504. | A-18. Currently at $6,416 | Needs updated to include newest threshold. **Changed to $8,504** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | A-5. Definitions: Development, does not include mention of dismantling or removing structures. | Could use inclusion of example language in current list. **Added Definition: Development, 5.** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | RCW 90.58.355 mentioned within Ch. 7.6, C and A-8, Definitions: Exempt; | Inclusion of DOE example language could help clarify updates. **Added 7.6, C, 3** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | Pg. 51, Ch. 7.3, E. mentions "date of filing". "date of receipt" nowhere in SMP. Pg. 57, Ch. 7.6, I rferences that the jurisdiction sends the permit, and then WACs for detailed instructions. | No Action Needed. |
| **e.** | Ecology amended **forestry use regulations** to clarify that forest | Pg. 53, Ch. 7.6, C does not include this exemption. | Needs update to include DOE example language. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | | **Added 7.6, C, 4** |
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | Pg. 53, Ch 7, Sec 6, C, not listed under exemptions. | Update needed to include DOE example language. **Added Pg. 2, Ch. 1.5, C, 6** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | A-13. Definitions. contains nonconforming lots and use, but not development/structure. | Update needed to bring language to current standard, and to add definition of Non-conforming Structure/Development. **Added definition on A-13. Separated sections under 7.7** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language. **Added 7.6, C, 5** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Appendix B, Chapter 3, B references Eastern Washington rating system | No Action Needed. |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | 90.58.140 referenced under 7.6, C, 1. | No Action required unless further clarification is wanted such as DOE example language. |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined. | No Action Needed. |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under "Wetland edge; definition. A-24. | No Action Needed. |
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally established prior to January 1, 2011. | Pg. 38, Ch 5.10, A, 5. Floating and other over-water homes, including liveaboards, are prohibited. | No Action Needed. |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | Ch. 7.7, D, 5 contains appropriate language. | No Action Needed. |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language | No Action Needed |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language | No Action Needed |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language | No Action Needed |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language | No Action Needed |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | Development regulations have had amendments but do not trigger need for SMP update. |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☐ | Yes | The CAO has been updated, but updates are included in current draft SMP. |
| | ☒ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☐ | Yes | |
| | ☒ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☐ | Yes | |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

## Changes to local circumstance, new information, or improved data

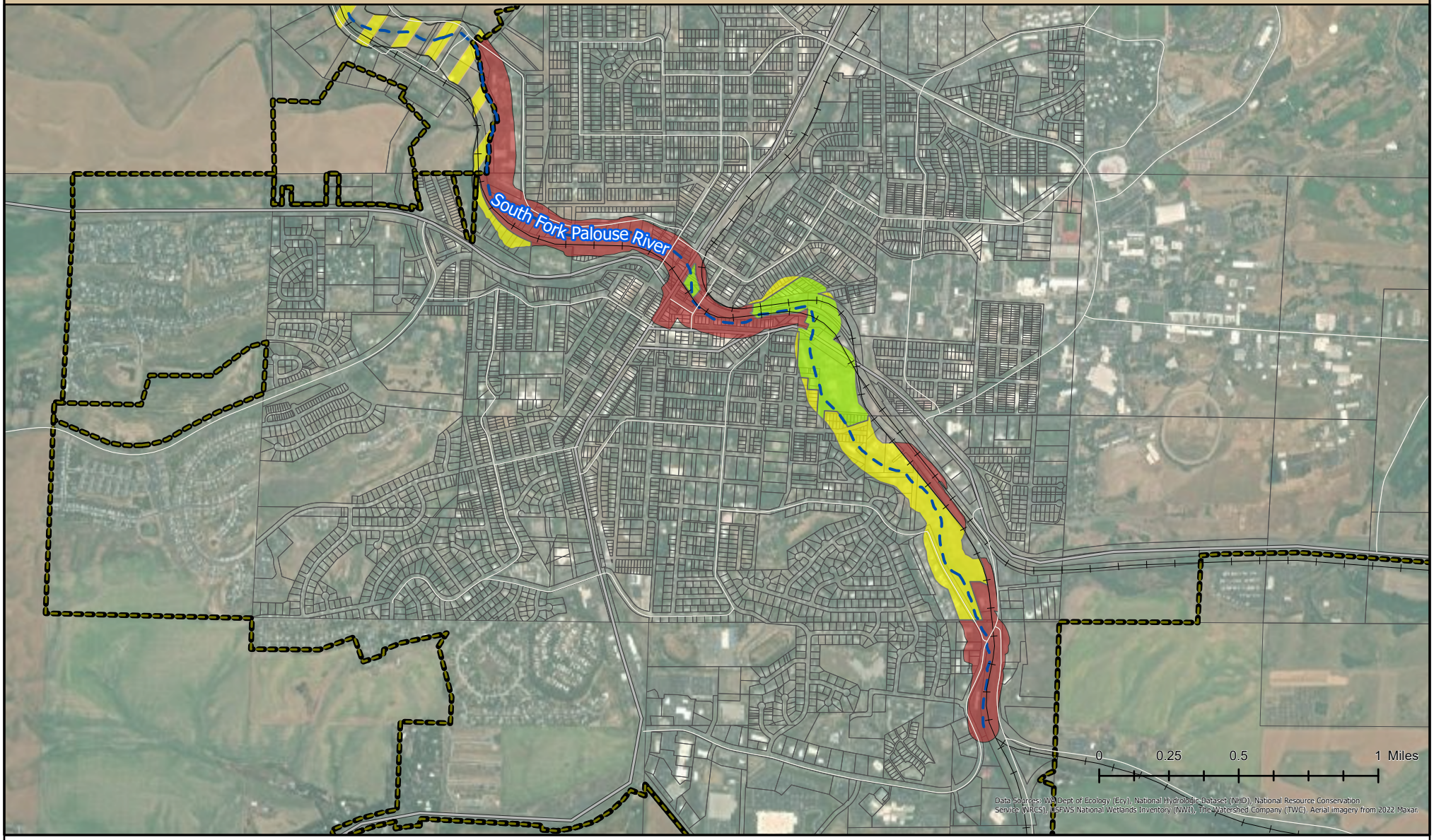
| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

# City of Pullman

## Official Shoreline Maps




WHITMAN COUNTY COALITION SMP UPDATE

SCJ ALLIANCE
CONSULTING SERVICES

- SMP Stream
- Shoreline Residential
- Shoreline Residential - Urban Growth Area
- High Intensity
- Shoreline Parks
- Town Limits
- Whitman Parcels



# CITY OF PULLMAN
# SHORELINE MASTER PROGRAM

Adopted Ord. XX
Approved by Ecology XX
Effective XX
Periodic Update Working Draft: January 11, 2023

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**ORDINANCE NO. 16-3**

**Commented [RG1]:** Update for adoption 2023

AN ORDINANCE OF THE CITY OF PULLMAN, WASHINGTON, RELATING TO ENVIRONMENT, ADDING A NEW CHAPTER 16.55, SHORELINE MASTER PROGRAM, TO THE PULLMAN CITY CODE AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the Washington State Shoreline Management Act (Act) was passed by the state Legislature in 1971, and affirmed by state voters through a public referendum in 1972; and,

WHEREAS, the legislative findings of the Act declare that "coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest"; and,

WHEREAS, the Act requires that each local government with applicable shorelines adopt a Shoreline Master Program to fulfill the provisions of the law; and,

WHEREAS, a portion of the shorelines along the South Fork of the Palouse River within the City of Pullman fall under the jurisdiction of the Act; and,

WHEREAS, in accordance with the provisions of the Act, the City of Pullman adopted a Shoreline Master Program in 1974 by means of Ordinance No. B-163; and,

WHEREAS, the state Legislature adopted revisions to the Act in 2003 which state that all applicable cities within Whitman County are currently required to amend their Shoreline Master Programs; and,

WHEREAS, a draft Shoreline Master Program amendment was produced for the City of Pullman in accordance with the provisions of the Act in January of 2015; and,

WHEREAS, the Planning Commission held a duly noticed public hearing on July 22, 2015 to solicit public comment regarding the draft Shoreline Master Program amendment and to review the contents of said draft Shoreline Master Program amendment; and,

WHEREAS, the Planning Commission, at the conclusion of its public hearing on July 22, 2015, adopted Resolution No. PC-2015- 10, thereby recommending conditional approval to the City Council of the draft Shoreline Master Program amendment; and,

WHEREAS, the City Council conducted a public meeting on August 18, 2015 to reflect upon the contents of the draft Shoreline Master Program amendment as recommended by the Planning Commission; and,

WHEREAS, the City Council has thoroughly reviewed the draft Shoreline Master Program amendment and finds that adoption of said Shoreline Master Program amendment would be in the public interest; now, therefore,

The City Council of the City of Pullman does ordain as follows:

Section 1: There is hereby added a new chapter 16.55 to the Pullman City Code.

# Part I. Introduction

Section 2: Under Part I. INTRODUCTION, there is hereby added a new section 16.55.010 to the Pullman City Code that reads as follows:

## 16.55.010 Title.

This chapter shall be known and may be cited as the City of Pullman Shoreline Master Program (the "Program," "Master Program," or "SMP").

Section 3: There is hereby added a new section 16.55.020 to the Pullman City Code that reads as follows:

## 16.55.020 Adoption Authority.

This Program is adopted under the authority granted by the Shoreline Management Act (Act) of 1971, Revised Code of Washington (RCW) Chapter 90.58, and Washington Administrative Code (WAC) Chapter 173-26 as amended.

Section 4: There is hereby added a new section 16.55.030 to the Pullman City Code that reads as follows:

## 16.55.030 Purpose and Intent.

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

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

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

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

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

Section 5: There is hereby added a new section 16.55.040 to the Pullman City Code that reads as follows:

## 16.55.040 Purpose and Relationship to State Planning and Shoreline Laws.

Washington State's citizens voted to approve the Shoreline Management Act (SMA) of 1971 in November 1972. In accordance with the SMA, Whitman County and incorporated cities and towns developed and adopted their first Shoreline Master Program (SMP) in 1974. The SMA and implementing SMP Guidelines require all towns, cities, and counties across the state to comprehensively update their SMPs. The SMP update allows preparations of a locally tailored program that represents the visions and interests of our citizens and meets the needs of our rural communities. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in WAC 173-26. After the City's local development and adoptions process is complete, the SMP is reviewed by the Washington State Department of Ecology (Ecology) to ensure compliance with the SMP Guidelines. The SMP does not become effective until it has been adopted by the City and approved by Ecology.

Section 6: There is hereby added a new section 16.55.050 to the Pullman City Code that reads as follows:

## 16.55.050 Applicability.

(1) Unless specifically exempted by statute, all proposed uses and development occurring within the shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

(2) Except as described in Subsection 16.55.050(3), all proposed uses and development occurring within shoreline jurisdiction must conform to the intent and requirements of the laws and rules cited in Section 16.55.020 (Adoption Authority).

(3) This SMP does not apply to the following activities:

(a) Consistent with Section 16.55.100 (Definitions), WAC 173-26-020 (Definitions), and WAC 173-26- 241(3)(a), as amended, agricultural activities on agricultural lands as of the date of adoption of the SMP.

(b) Interior building improvements that do not change the use or occupancy;

(c) Exterior structure maintenance activities, including painting and roofing, as long as it does not expand the existing footprint of the structure;

(d) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and

(e) As of the effective date of the SMP, legal pre- existing residential uses and structures where no change or new activity is proposed.

(f) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of chapter 90.58 RCW.

(4) Activities that are exempt from the permit system in Subsection 16.55.160(2) shall comply with this SMP whether or not a permit or other form of authorization is required.

(5) The shoreline permit procedures, policies and regulations established in this SMP shall apply City-wide to all non-federal uses, activities, and development.

(6) This SMP applies to lands subject to non-federal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.

(7) This SMP does not apply to annexed areas unless the requirements of WAC 173-26-150 and 160 are complied with. The City has predesignated shorelines in the urban growth area. Until annexed, development in these areas shall be regulated by the Whitman County Shoreline Master Program. Once annexed, those properties shall be regulated by the City of Pullman Shoreline Master Program.

(8) A proposed project or plan shall become vested to this Shoreline Master Program on the date a determination of completeness is made on a shoreline permit or exemption application. Thereafter, the application shall be reviewed under the shoreline regulations in effect on the date of vesting; provided, in the event an applicant substantially changes the proposal after a determination of completeness, as determined by the SMP Administrator, the application shall not be considered vested until a new determination of completeness on the changes is made.

Section 7: There is hereby added a new section 16.55.060 to the Pullman City Code that reads as follows:

## 16.55.060 Liberal Construction.

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

Section 8: There is hereby added a new section 16.55.070 to the Pullman City Code that reads as follows:

## 16.55.070 Interpretation.

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

Section 9: There is hereby added a new section 16.55.080 to the Pullman City Code that reads as follows:

## 16.55.080 Effective Date.

The SMP is hereby adopted on the 29th day of March, 2016. This SMP and all amendments thereto shall become effective 14 days from the date of the Washington State Department of Ecology's written notice of final approval.

Section 10: There is hereby added a new section 16.55.090 to the Pullman City Code that reads as follows:

## 16.55.090 Document Organization.

The SMP establishes long- term planning goals and policies; specific development standards and use regulations; and permitting and administrative procedures. As such, the SMP is linked to other City planning documents such as the City of Pullman Comprehensive Plan and the Pullman City Code. The organization of the SMP and the purpose for each part is explained below.

(1) Part I. Introduction: provides background, purpose and legal authority.

(2) Part II. Definitions: provides definitions for terms used throughout the SMP.

(3) Part III. Administration and Permitting: provides procedures and process for permit applications associated with shoreline development.

(4) Part IV. Shoreline Vision and Goals: provides the SMP vision statement and enacting goals.

(5) Part V. Shoreline Jurisdiction and Environment Designations: Establishes the shoreline jurisdiction and includes the purpose, designation criteria and management policies for specific areas within the shoreline jurisdiction.

(6) Part VI. General Policies and Regulations: Provides general policies and regulations that apply broadly to uses and developments in all shoreline areas.

(7) Part VII. Shoreline Critical Areas Policies and Regulations: Contains policies and regulations for developments and uses in shoreline critical areas.

(8) Part VIII. Shoreline Use Policies and Regulations: establishes policies and regulations for specific uses in shoreline jurisdiction.

(9) Part IX. Shoreline Modification Policies and Regulations: Establishes policies and regulations for shoreline modification activities and structures.

# Part II. DEFINITIONS

Section 11: Under Part II. DEFINITIONS, there is hereby added a new section 16.55.100 to the Pullman City Code that reads as follows:

## 16.55.100 Definitions.

Words not defined in this Chapter shall be as defined in the following codes under this order of precedence: the Pullman City Code, the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). Words not found in any of these codes shall be as defined in the Webster's Third New International Dictionary, latest edition.

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

2) Accessory dwelling unit. An additional, smaller, subordinate dwelling unit on a lot with, or located in, an existing or new single-family dwelling.

3) Accessory use or structure. A building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot of record or part of the same development.

4) Act. The Washington State Shoreline Management Act, chapter 90.58 RCW.

5) Activity. A specified pursuit in which a person partakes in the shoreline jurisdiction. Types of activities include development, modification, restoration, recreation, and other human activities.

6) Adjacent. To be nearby and not necessarily abutting.

7) Administrator or SMP Administrator. The City designee charged with the responsibility of administering the City of Pullman SMP.

8) Advance mitigation. Mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report or other applicable information and prior to site development.

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

10) Agricultural equipment and agricultural facilities. Includes, but is not limited to:

11) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

12) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within

agricultural lands;

13) Farm residences and associated equipment, lands, and facilities; and

14) Roadside stands and on-farm markets for marketing fruit or vegetables.

15) Agricultural land. Those specific land areas on which agricultural activities are conducted as of the date of adoption of this Master Program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of this Master Program, land converted to agricultural use is subject to compliance with the requirements of this Master Program.

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

17) Agricultural related industries. Agricultural related industries include:

18) Packaging plants, which may include, but are not limited to washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities or slaughter houses, animal reduction yards, and tallow works.

19) Processing plants, which may include, but are not limited to, those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.

20) Storage facilities, which may include those activities which involve the warehousing of processed and/or packaged agricultural products.

21) Agricultural stands. A structure used for the retail sale of agricultural and related incidental products, excluding livestock that is primarily grown on the same property where the stand is located.

22) Alkali wetlands. Alkali wetlands are characterized by the occurrence of shallow saline water. In eastern Washington these wetlands contain surface water with specific conductance that exceeds 3000 micromhos/cm. The salt concentrations in these wetlands have resulted from a relatively long-term process of groundwater surfacing and evaporating.

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

24) Amendment. A revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

25) Applicant. A person who files an application for a development permit under this Chapter and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

26) Approval. An official action by a local government legislative body agreeing to submit a proposed SMP oramendments to the Department of Ecology for review and official action pursuant to this Chapter; or an official action by the Department of Ecology to make a local government SMP effective, thereby incorporating the approved SMP or amendment into the state master program.

27) Aquaculture. The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

28) Aquifer. A geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

29) Aquifer, confined. An aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains ground water under sufficient pressure for the water to rise above the top of the aquifer.

30) Aquifer recharge area. An area that, due to the presence of certain soils, geology, and surface water, acts to recharge ground water by percolation.

31) Aquifer, sole source. An area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty percent (50%) or more of the drinking water for an area without a sufficient replacement available.

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

33) Aquifer, unconfined. An aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing ground water under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer."

34) Associated wetlands. Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

35) Base flood or 100-year flood. The designation on the Federal Emergency Management Act (FEMA) Flood Insurance Maps that denote areas subject to floods having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood is determined for existing conditions, unless a basin plan including project flows under future developed conditions has been completed and adopted by the City of Pullman; in these cases, future flow projections shall be used. In areas where the Flood Insurance Study includes detailed base flood calculations, those calculations may be used until projections of future flows are completed and approved by the City of Pullman.

36) Basement. Any area of the building having its floor below ground level on all sides.

37) Best management practices or BMP. Conservation practices or systems of practices and management measures that:

38) Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics and sediment;

39) Minimize adverse impacts to surface water and ground water flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;

40) Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for re-vegetation of disturbed areas; and

41) Provide standards for proper use of chemical herbicides within critical areas.

42) Board of Adjustment. The City of Pullman Board of Adjustment.

43) Boating facilities. Developments and uses that support access to shoreline waters for purposes of boating, including marinas, community docks serving more than four single-family residences or multi-family units, public piers, and community or public boat launch facilities.

44) Bog. A low-nutrient, acidic wetland with organic soils and characteristic bog plants, which is sensitive to disturbance and impossible to re-create through compensatory mitigation.

45) Breakwater. A fixed or floating off-shore structure that protects the shore from wave action or currents.

46) Buffer. A designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

47) Buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

48) Buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, and which ensure that buildings and development avoid the

hazardous condition;

49) Buffers to separate incompatible uses, such as residential from industrial, airports, or certain activities common to commercial agriculture, are generally open or sparsely populated.

50) Bulkhead. An erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

51) Channel migration zone or CMZ. The area along a river within which the channel)s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

52) City Critical Area Maps. Maps maintained by the Pullman Department of Community Development that depict certified and suspected aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

53) Clearing. The cutting or removal of vegetation or other organic plant materials by physical, mechanical, chemical, or any other means.

54) Commercial use. Those activities engaged in commerce and trade and involving the exchange of money, including but not limited to, retail, services, wholesale, or business trade activities.

55) Compensation project. Actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.

56) Compensatory mitigation. Replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

57) Restoration – Actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland;

58) Creation – Actions performed to intentionally establish a wetland at a site where it did not formerly exist;

59) Enhancement – Actions performed to improve the condition of existing degraded wetlands so that the functions they provide are of a higher quality; and

60) Preservation – Actions taken to ensure the permanent protection of existing, high-quality wetlands.

61) Comprehensive master program update. A master program that fully achieves the procedural and substantive requirements of the Department of Ecology's SMP Guidelines effective January 17, 2004, as now or hereafter amended.

62) Comprehensive Plan. The officially adopted document and any amendments or supplements thereto adopted by the City of Pullman, which sets forth policies and standards for determining the best use of land and other resources of the City.

63) Conditional use. A use, development, or substantial development which is classified as a conditional use or is not classified within this Master Program.

64) Conservation easement. A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

65) Creation. The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

66) Critical aquifer recharge area. Areas designated by WAC 365-190-100 that are determined to have a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(3).

67) Critical areas. Critical areas include the following areas and ecosystems: (a) wetlands, (b) areas with a critical recharging effect on aquifers used for potable water, (c) fish and wildlife habitat conservation

areas, (d)frequently flooded areas, and (e) geologically hazardous areas.

~~67)~~68) Cumulative impact. The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individual minor but collectively significant actions taking place over a period of time.

~~68)~~69) Dairy. A farm operation producing milk products.

~~69)~~70) Developable Area. A site or portion of a site that may be utilized as the location of development, in accordance with the rules of this Chapter.

~~70)~~71) Development. The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. See also "Substantial development." Development does not include the following activities:

~~71)~~72) Interior building improvements that do not change the use or occupancy;

~~72)~~73) Exterior structure maintenance activities, including painting and roofing as long as it does not expand the existing footprint of the structure;

~~73)~~74) Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning and weeding; and

~~74)~~75) Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells;and individual utility service connections.

~~75)~~76) Dismantling or removing structures if there is no other associated development or re-development.

~~76)~~77) Development permit. Any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.

~~77)~~78) Development regulation. Any controls placed on development or land use activities by the City of Pullman, including but not limited to, zoning ordinances, official controls, and subdivision ordinances.

~~78)~~79) Dock. A structure that is built over or floating upon the water and is used as a landing or moorage place for commercial and pleasure craft, marine transport, fishing, swimming, and other recreational uses. A dock typically consists of a combination of one or more of the following elements: pier, ramp, and/or float.

~~79)~~80) Dredging. Removal of earth from the bed of a stream, lake, or pond for the purpose of flood control; navigation; utility installation (excluding on-site utility features serving a primary use, which are accessory utilities and shall be considered a part of the primary use); the construction or modification of essential public facilities and regional transportation facilities; restoration (of which the primary restoration element is sediment/soil removal rather than being incidental to the primary restoration purpose); and/or obtaining minerals, construction aggregate, or landfill materials. This definition does not include excavation for mining within a pond created by a mining operation approved under this SMP or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations. Dredging, as regulated in this SMP under Section 16.55.530 (Dredging and Dredge Material Disposal), is not intended to cover other excavations waterward of the ordinary high water mark that are incidental to construction of an otherwise authorized use or modification (e.g., bulkhead replacements, large woody debris installations, boat launch ramp installation, pile placement).

~~80)~~81) Ecological functions or shoreline functions. Ecological functions or shoreline functions means work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the marine, aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-020(13).

~~81)~~82) Ecologically intact. Shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and

intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent waterbodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

~~82)~~83) Ecosystem-wide processes. The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

~~83)~~84) Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline

~~84)~~85) in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or *invasive species*, and modifying site elevations to alter hydroperiods.

~~85)~~86) Erosion. The process in which soil particles are mobilized and transported by natural agents such as wind, rain, splash, frost action or stream flow.

~~86)~~87) Erosion hazard areas. At least those areas identified by the U.S. Department of Agriculture Natural Resources Conservation Service as having a "severe" rill and inter-rill erosion hazard.

~~87)~~88) Excavation. The mechanical removal of earth materials.

~~88)~~89) Exempt. Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355, and 90.58.515 which are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the SMA and this Master Program.

~~89)~~90) Exotic. Any species of plants or animals that are foreign to the planning area.

~~90)~~91) Fair market value. The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

~~91)~~92) Feasible. An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

~~92)~~93) The action provides a reasonable likelihood of achieving its intended purpose; and

~~93)~~94) The action does not physically preclude achieving the project's primary intended legal action.

~~94)~~95) In cases where this SMP requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the actions' relative public costs and public benefits, considered in the short- and long-term time frames.

~~95)~~96) Federal Emergency Management Agency (FEMA). The agency that oversees the administration of the National Flood Insurance Program.

~~96)~~97) Feedlot. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations. Feedlots do not include facilities used for animal husbandry and other non-commercial activities.

~~97)~~98) Fill. The addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other

material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the ground elevation or creates dry land.

~~98)~~99) Fish and wildlife. Any member of the animal kingdom, including without limitation, any vertebrate, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body parts thereof.

~~99)~~100) Fish and wildlife habitat conservation areas. Areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130 and Section 16.55.400(1).

~~100)~~101) Fish habitat. Habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered

~~101)~~102) by restoration or management and includes off-channel habitat.

~~102)~~103) Float. An anchored (not directly to the shore) floating platform that is free to rise and fall with water levels and is used for water-dependent recreational activities such as boat mooring, swimming, or diving. Floats may stand alone with no over-water connection to shore or may be located at the end of a pier or ramp.

~~103)~~104) Flood, Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source and/or the overflow of inland or tidal waters.

~~104)~~105) Flood control. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

~~105)~~106) Flood fringe. Land area that is outside the floodway of a stream, but is subject to periodic inundation due to flooding, associated with a regulatory flood.

~~106)~~107) Flood Insurance Rate Map (FIRM). 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.

~~107)~~108) Flood Insurance Study. The official report by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

~~108)~~109) Floodplain. Synonymous with the one hundred-year floodplain and means that land area susceptible to inundation with a one percent (1%) 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 SMA.

~~109)~~110) Floodway. The area, as identified in a master program, that either:

~~110)~~111) Has been established in federal emergency management agency (FEMA) flood insurance rate maps (FIRMs) or floodway maps; or

~~111)~~112) Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually.

~~112)~~113) Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

~~113)~~114) Forest practices. Any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: road and trail construction; harvesting, or processing timber, including but not limited to road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Forest practice shall not

include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

~~114)~~115) Frequently flooded area. Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as

~~115)~~116) determined by the SMP Administrator in accordance with WAC 365-190-110. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

~~116)~~117) Functions and values. The services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation.

~~117)~~118) Geologically hazardous areas. Areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-120. Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards.

~~118)~~119) Geotechnical report or geotechnical analysis. A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site- specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

~~119)~~120) Grade. The vertical location of the ground surface.

~~120)~~121) Natural grade is the grade as it exists or may have existed in its original undisturbed condition.

~~121)~~122) Existing grade is the current grade in either its undisturbed, natural condition or as disturbed by some previous modifications.

~~122)~~123) Rough grade is a stage where grade conforms approximately to an approved plan.

~~123)~~124) Finish grade is the final grade of the site which conforms to an approved plan.

~~124)~~125) Average grade level is 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 water, average grade level shall be the elevation of the 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.

~~125)~~126) Grading. Excavation or fill or any combination thereof, including but not limited to the establishment of a grade following the demolition of a structure or preparation of a site for construction or development.

~~126)~~127) Groin. A barrier type structure extending from the stream bank into a waterbody for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water or deposition of materials. Groins may serve a variety of functions, including bank protection, pool formation, and increased roughness, and may include rock structures, debris jams, or pilings that collect wood debris. See also "Weir."

~~127)~~128) Groundwater. Water in a saturated zone or stratum beneath the surface of land or a surface waterbody.

~~128)~~129) Guidelines. Those standards adopted by the Department of Ecology into the Washington Administrative Code (WAC) to implement the policy of Chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards also provide criteria for local governments and the Department of Ecology in developing and amending master programs.

~~129)~~130) Habitat. The place or type of site where a plant or animal naturally or normally lives and grows.

~~130)~~131) Hard stabilization. Shoreline erosion control practices using hardened structures that armor and stabilize the shoreline from further erosion. Hard structural shoreline stabilization typically uses concrete, boulders, dimensional lumber or other materials to construct linear, vertical or near-vertical faces. These include bulkheads, rip-rap, and similar structures.

~~131)~~132) Hazard areas. Areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

~~132)~~133) Hazardous substances. Any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

~~133)~~134) Height. Measured from average grade level to the highest point of a structure as described in Title 17 of the Pullman City Code: 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 SMP specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

~~134)~~135) High intensity land use. Land uses which are associated with high levels of human disturbance or substantial adverse habitat impacts including, but not limited to, medium and high-density residential, multi-family

~~135)~~136) residential, some agricultural practices, and commercial and industrial land uses.

~~136)~~137) Houseboat or floating home. A dwelling unit constructed on a float that is moored, anchored, or otherwise secured in the water and is not designed for navigation under its own power.

~~137)~~138) Hydric soil. A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in accordance with WAC 173-22-035 as amended.

~~138)~~139) Hyporheic zone. The saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients, and maintains water quality.

~~139)~~140) Impervious surface. Any alterations to the surface of a soil that prevents or retards the entry of water into it compared to its undisturbed condition, or any reductions in infiltration that cause water to run off the surface in greater quantities or at an increased rate of flow compared to that present prior to development. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

~~140)~~141) Industrial. Activities and facilities for processing, manufacturing, and storage of finished or semi-finished goods, wholesale trade or storage, together with necessary accessory uses such as parking, loading, and waste storage treatment.

~~141)~~142) Infiltration. The downward entry of water into the immediate surface of soil.

~~142)~~143) Injection Well.

~~143)~~144) Class I: A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter mile (1,320 feet) of the well bore, an underground source of drinking water.

~~144)~~145) Class II: A well used to inject fluids:

~~145)~~146) Brought to the surface in connection with conventional oil or natural gas exploration or

production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;

~~146)~~147) For enhanced recovery of oil or natural gas; or

~~147)~~148) For storage of hydrocarbons that are liquid at standard temperature and pressure.

~~148)~~149) Class III: A well used for extraction of minerals, including but not limited to the injection of fluids for:

~~149)~~150) In-situ production of uranium or other metals that have not been conventionally mined;

~~150)~~151) Mining of sulfur by Frasch process; or

~~151)~~152) (iii)Solution mining of salts or potash.

~~152)~~153) Class IV: A well used to inject dangerous or radioactive waste fluids.

~~153)~~154) Class V: All injection wells not included in Classes I, II, III, or IV.

~~154)~~155) In-kind compensation. To replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity.

~~155)~~156) In-stream structures. Structures placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or the diversion obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

~~156)~~157) Inter-Rill. Areas subject to sheet wash.

~~157)~~158) Isolated wetlands. Those wetlands that are outside of and not contiguous to any 100-year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water, including other wetlands.

~~158)~~159) Jetty. Jetties are structures generally built singly or in pairs perpendicular to the shore at harbor entrances or river mouths to prevent the shoaling or accretion of littoral drift. Jetties also protect channels and inlets from storm waves and cross-currents.

~~159)~~160) Lahars. Mudflows and debris flows originating from the slopes of a volcano.

~~160)~~161) Landslide hazard areas. Areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors. These areas are typically susceptible to landslides because of a combination of factors including: bedrock, soil, slope gradient, slope aspect, geologic structure, groundwater, or other factors. For a complete definition, see WAC 365-190-120(6).

~~161)~~162) Livestock. Animals that are raised for use and profit.

~~162)~~163) Lot. A parcel of land which is separately described by a deed instrument or sales contract, which deed or contract has been officially recorded with the Whitman County Auditor, considered as a unit of real property, and legally described in metes and bounds; or a parcel of land shown by number of an officially recorded short plat or subdivision plat.

~~163)~~164) Low Intensity Land Use. A land use that is associated with low levels of human disturbance or low habitat impacts, including, but not limited to,passive recreation uses, open space uses, and residential uses with less than five dwelling units per acre.

~~164)~~165) Maintenance, normal. Those usual acts to prevent a decline, lapse, or cessation from a legally established condition.

~~165)~~166) Manufactured Homes. A dwelling unit built according to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act (42 U.S.C. 5401-5426), as it exists now or may hereafter be amended. A manufactured home also:

~~166)~~167) Includes plumbing, heating, air conditioning, and electrical systems;

~~167)~~168) Is built on permanent chassis; and

~~168)~~169) Can be transported in one or more sections with each section at least 8 feet wide and 40 feet long when transported, or when installed on the site is

~~169)~~170) 320 square feet or greater.

~~170)~~171) Master Program. The comprehensive shoreline master program for the City of Pullman, including the use regulations together with maps, diagrams, charts or other descriptive material and text.

~~171)~~172) Mature forested wetland. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least thirty percent (30%) and where at least

~~172)~~173) 8 trees/acre are 80 to 200 years old OR have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

~~173)~~174) May. An action that is acceptable, provided it conforms to the provisions of the WAC 173-26 and this Program.

~~174)~~175) Mine Hazard Areas. Areas that are underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

~~175)~~176) Mining. The removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc.

~~176)~~177) Minerals. Materials including gravel, sand, and valuable metallic substances. [RCW 36.70A.030(11); WAC 365-190- 030(12)].

~~177)~~178) Mitigation. The use of any or all of the following actions that are listed in descending order of preference:

~~178)~~179) Avoiding the impact altogether by not taking a certain action or parts of an action;

~~179)~~180) 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;

~~180)~~181) Rectifying the impact by repairing, rehabilitating or restoring the affected sensitive area;

~~181)~~182) Reducing or eliminating the impact over time by preservation or maintenance operations during the life of the development proposal;

~~182)~~183) Compensating for the impact by replacing, enhancing or providing substitute sensitive areas and environments;

~~183)~~184) Monitoring the impact and taking appropriate corrective measures.

~~184)~~185) Mixed-use project. A use that contains a mix of water- dependent and nonwater-oriented uses or developments. This definition is only applicable within shoreline jurisdiction as defined by this SMP.

~~185)~~186) Monitoring. The ongoing evaluation of the impacts of a development proposal on the biological, hydrologic and geologic conditions of critical areas or shorelines.

~~186)~~187) Monitoring includes the gathering of baseline data and the assessment of the performance of required mitigation measures through the collection and analysis of data for the purposes of understanding and documenting changes in natural ecosystems and features.

~~187)~~188) Moorage facility. A marina, pier, dock, mooring buoy, or any other similar fixed moorage site.

~~188)~~189) Must. A mandate; the action is required.

~~189)~~190) Native vegetation. Plant species which are indigenous to the region and which reasonably could have been expected to naturally occur on the site. Native vegetation does not include noxious weeds.

~~190)~~191) No net loss of ecological function. A public policy goal and requirement to maintain the aggregate total of the City's shoreline ecological functions at its current level. For purposes of reviewing and approving this SMP, "current" is equivalent to the date of the Final Shoreline Analysis Report (August 2014). As a development standard, it means the result of the application of Mitigation Sequencing, in which impacts of a particular shoreline development and/or use, whether permitted or exempt, are identified and addressed, such that there are no adverse impacts on shoreline ecological functions or processes relative to the legal condition just prior to the proposed development and/or use.

~~191)~~192) Nonconforming building or structure. A nonconforming building or structure is one that was once allowed by applicable land use regulations, but no longer would be allowed, due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

~~192)~~193) Nonconforming lots. A nonconforming lot is one that was once allowed by applicable land use regulations but is no longer allowed, due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

~~193)~~194) Nonconforming Use. A nonconforming use is a use that was once allowed by applicable land use regulations, but is no longer allowed due to the passage or later change of the City's zoning code or, where applicable, prior land use regulations of the City.

~~194)~~195) Nonwater-oriented uses. Those uses that are not water- dependent, water-related, or water-enjoyment.

~~195)~~196) Off-site compensation. To replace critical areas or ecological functions away from the site on which a critical area or shoreline has been impacted.

~~196)~~197) On-site compensation. To replace critical areas or ecological functions at or adjacent to the site on which a critical area or shoreline has been impacted.

~~197)~~198) Ordinary high water mark (OHWM). That mark which is found by examining the bed and banks of waterbodies and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City or the Department of Ecology: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

~~198)~~199) Out-of-kind compensation. To replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. The determination of in-kind versus out-of-kind compensation for wetlands is dependent upon equivalency in wetland functions, not wetland categories.

~~199)~~200) Permeability. The capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

~~200)~~201) Permit. An approval for which there is a minimum standard, as stated in any of the relevant ordinances or state law, which must be met in order for the approval to be given.

~~201)~~202) Permit, Shoreline. Any Shoreline Substantial Development Permit, Shoreline Variance, Shoreline Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

~~202)~~203) Pier. A fixed platform above the water and supported by piles, usually perpendicular to the shoreline. See also "Dock."

~~203)~~204) Potable water. Water that is safe and palatable for human use.

~~204)~~205) Poultry. Domesticated birds such as chickens, turkeys, ducks, and geese for meat or eggs for consumption.

~~205)~~206) Practical alternative. An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, with less of an impact to critical areas.

~~206)~~207) Preservation. The removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This term includes the purchase of land or easements, repairing water

control structures or fences, or structural protection. Preservation does not result in a gain of wetland acres but may result in a gain in functions over the long term.

~~207)~~208) Priority habitat and species (PHS). As classified by the Department of Fish and Wildlife Priority Habitats and Species Program, Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance including State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations considered vulnerable; and those species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are those of habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional

~~208)~~209) stage, or a specific structural element. The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. (WAC 173- 26-020(29)).

~~209)~~210) Prohibited. Developments, modifications and uses that are viewed as inconsistent with the definitions, policies or intent of the shoreline environment designation and are not considered appropriate and are not allowed.

~~210)~~211) Project area. All areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

~~211)~~212) Preferred uses. Those uses which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the shoreline. "Preferred" uses include single- family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other developments that provide public access opportunities.

~~212)~~213) Provisions. Policies, regulations, standards, guideline criteria or environment designations.

~~213)~~214) Public access. The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

~~214)~~215) Public interest. The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

~~215)~~216) Public Trust Doctrine. A common law principle generally holding that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses. While the doctrine protects public use of navigable water bodies below the OHWM, the doctrine does not allow the public to trespass over privately owned uplands to access the tidelands.

~~216)~~217) Qualified professional. A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least two years of related work experience.

~~217)~~218) A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the state or federal manuals, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans;

~~218)~~219) A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species;

~~219)~~220) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington;

~~220)~~221) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

~~221)~~222) Recharge. The process involved in the absorption and addition of water to groundwater.

~~222)~~223) Recharge area. An area in which water is absorbed and added to the groundwater reservoir.

~~223)~~224) Reclaimed water. Municipal wastewater effluent that has been adequately and reliability treated so that it is suitable for beneficial use. Following treatment it is no longer considered wastewater (treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by the state Departments of Ecology and Health).

~~224)~~225) Recreation. An experience or activity in which an individual engages for personal enjoyment and satisfaction. Shore-based outdoor recreation includes but is not limited to fishing; various forms of boating, swimming, hiking, bicycling, horseback riding, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

~~225)~~226) Recreational Development. Commercial and public facilities that are designed and used to provide recreational opportunities to the public.

~~226)~~227) Recreation Vehicle. A vehicle that is:

~~227)~~228) Built on a single chassis;

~~228)~~229) 400 square feet or less when measured at the largest horizontal projection;

~~229)~~230) Designed to be self-propelled or permanently towable by a light duty truck; and

~~230)~~231) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

~~231)~~232) Re-establishment. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

~~232)~~233) Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and

~~233)~~234) processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

~~234)~~235) Repair, normal. Restoring a development or structure to a state comparable to its original, legally established condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as a repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

~~235)~~236) Residential. Buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex, or multi-family dwellings, mobile homes, manufactured homes, and other structures that serve to house people, as well as the creation of new residential lots through land division. This definition includes accessory uses common to normal residential use, including but not limited to, residential appurtenances, accessory dwelling units, and home occupations. Residential development also includes the creation of new residential lots through land division.

(165) Restore, restoration, or 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~~

~~236)~~237) ~~The~~returning shoreline area to an ~~b~~original or pre-European settlement conditions.

~~237)~~238) Rill. Steep-sided channel resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

~~238)~~239) Rip-rap. A layer, facing, or protective mound of stone placed on shoulders, slopes, or other such places to protect them from erosion, scour, or sloughing of a structure or embankment.

~~239)~~240) Salmonid. A member of the fish family salmonidae.

~~240)~~241) Sediment. The fine grained material deposited by water or wind.

~~241)~~242) Seeps. A spot where water oozes from the earth, often forming the source of a small stream.

~~242)~~243) Seismic hazard areas. Areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

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~~243)~~244) EPA. Washington State Environmental Policy Act, Chapter 43.21C RCW.

~~244)~~245) Setback. See "Yard, minimum required."

~~245)~~246) Shall. A mandate; the action must be done.

~~246)~~247) Shorelands or shoreland areas. Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams and lakes which are subject to the provisions of this Master Program; the same to be designated as to location by the Department of Ecology.

~~247)~~248) Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except

~~248)~~249) Shorelines of statewide significance [not found in Pullman];

~~249)~~250) 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

~~250)~~251) Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

~~251)~~252) Shoreline areas and shoreline jurisdiction. All "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

~~252)~~253) Shoreline Hearings Board. A state-level six member quasi-judicial body, created by the Shoreline Management Act, which hears appeals by any aggrieved party on the issuance of a shoreline permit or enforcement penalty, and appeals by the City on Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA.

~~253)~~254) Shorelines of statewide significance. The following shorelines of the state are shorelines of statewide significance:

~~254)~~255) Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark [not found in Pullman];

~~255)~~256) Those natural rivers or segments east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer [not found in Pullman]; and

~~256)~~257) Those shorelands associated with (a) and (b), above.

~~257)~~258) Shorelines of the state. Total of all "shorelines" and "shorelines of statewide significance" within the state.

~~258)~~259) Shoreline environment designations. Classification of shorelines established by this SMP in order to provide a uniform basis for applying polidcies and use regulations within distinctively

different shoreline areas.

~~259)~~260) Shoreline modifications. 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, grading, or application of chemicals.

~~260)~~261) Shoreline stabilization. Structural or non-structural modifications to the existing shoreline intended to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, wind, or wave action. They are generally located parallel to the shoreline at or near the OHWM.

~~261)~~262) Should. The particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

~~262)~~263) Significant adverse effect/impact. Any noticeable or measureable degradation of an environmental condition, including ecological characteristics, such as vegetation, water quality, or habitat, as well as social values, such as public health, safety, or availability of public access.

~~263)~~264) Significant portion of its range. That portion of a species range likely to be essential to the long-term survival of the population in Washington.

~~264)~~265) Significant vegetation removal. Removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affectecological functions, does not constitute significant vegetation removal.

~~265)~~266) Slide. The downward mass movement of soil, rock, or snow resulting from failure of that material under stress.

~~266)~~267) Slope. The inclination of the surface of the land from the horizontal.

~~267)~~268) SMA. The Washington State Shoreline Management Act, chapter 90.58 RCW.

~~268)~~269) SMP Administrator. See “Administrator.”

~~269)~~270) Soft stabilization. Shoreline erosion control and restoration practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Soft structural shoreline stabilization typically includes a mix of gravels, cobbles, boulders, logs and native vegetation placed to provide shore stability in a non-linear, generally sloping arrangement. Linear, vertical faces are an indicator of hard stabilization (see above definition).

~~270)~~271) Soil survey. The most recent soil survey for the local area or county by the Natural Resources Conservation Service, U.S. Department of Agriculture.

~~271)~~272) Special Protection Areas. Aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

~~272)~~273) Ground waters that support an ecological system requiring more stringent criteria than drinking water standards;

~~273)~~274) Ground water recharge areas and wellhead protection areas, that are vulnerable to pollution because of hydrogeologic characteristics; and

~~274)~~275) Sole source aquifer status.

~~275)~~276) Species. Any group of animals or plants classified as a species or subspecies as commonly accepted by the scientific community.

~~276)~~277) Species, endangered. Any wildlife species native to the state of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state (WAC 232-12-297, Section 2.4).

~~277)~~278) Species of local importance. Those species of local concern designated by the City due to their

population status or their sensitivity to habitat manipulation.

279) Species, priority. Any fish or wildlife species requiring protective measures and/or management guidelines to ensure its persistence at genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

~~278)~~280) Species, threatened. Any wildlife species native to the state of Washington that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.5).

~~279)~~281) Species, sensitive. Any wildlife species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened throughout a significant portion of its range within the state without cooperative management or removal of threats (WAC 232-12-297, Section 2.6).

~~280)~~282) State master program. The cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by Ecology.

~~281)~~283) Stockyards. Large yards containing pens, typically adjacent to a slaughterhouse, where livestock is kept and sorted.

~~282)~~284) Stream. An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they

~~283)~~285) are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

~~284)~~286) Structure. A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

~~285)~~287) Sub-drainage basin or subbasin. The drainage area of the highest order stream containing the subject property impact area. Stream order is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two first order streams meet, they form a second order stream, and when two second order streams meet they become a third order stream, and so on.

~~286)~~288) Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

~~287)~~289) Substantial development. Any development of which the total cost or fair market value exceeds $8,504, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in RCW 90.58.030(3)(e) must be adjusted for inflation by the Office of Financial Management every five years, beginning September 15, 2012, based upon changes in the consumer price index during that time period. (The consumer price index means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the Bureau of Labor and Statistics, United States Department of Labor.) The Office of Financial Management must calculate the new dollar threshold and

~~288)~~290) transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. For the purpose of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated or found labor, equipment or materials. See WAC 173-27-040 for a list of developments that are not considered substantial.

~~289)~~291) Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 does not, however, include either: (1) any project for the improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by City Building Inspection or Planning staff, or Whitman County Environmental Health and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a structure listed in the National Register of Historic Places or a State Inventory of Historic Places.

~~290)~~292) Substantially degrade. To cause significant ecological impact.

~~(93)~~293) Transportation. Roads and railways, related bridges and culverts, fills, embankments, causeways, parking areas, and trails.

~~(94)~~294) Unavoidable Impacts. Adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

~~291)~~295) Upland. The area above and landward of the OHWM.

~~292)~~296) Use. The activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

~~293)~~297) Utility. A primary or accessory service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like.

~~294)~~298) Vadose zone analysis. The characterization of the soil profile above the water table.

~~295)~~299) Variance. A variance is the means by which an adjustment may be made in the application of the specific regulations of this Code to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the vicinity and similar zone classification and which adjustment remedies the difference in privileges; provided, however, that a variance granted shall not authorize a use otherwise prohibited in the shoreline environment designation in which the property is located.

~~296)~~300) Vegetation. Any and all organic plant life growing at, below, or above soil surface.

~~297)~~301) Vernal pools. Vernal pool ecosystems are formed when small depressions in the scabrock or in shallow soils fill with snowmelt or spring rains.

~~298)~~302) Vessel. Includes ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

~~299)~~303) Visitor-serving uses. Those uses or businesses that would not be located in the City of Pullman if it were not for the presence of tourists or visitors to the region.

~~300)~~304) Water-dependent use. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

~~301)~~305) Water-enjoyment use. 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.

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~~302)~~306) Water-oriented use. Any water-dependent, water-related, or water-enjoyment use.

~~303)~~307) Water quality. The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, 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 chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

~~304)~~308) Water-related use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

~~305)~~309) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

~~306)~~310) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

~~307)~~311) Water table. That surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

~~308)~~312) Watershed restoration plan. A plan, developed or sponsored by the Washington Departments of Fish and Wildlife, Ecology, Natural Resources, or Transportation; a federally recognized Indian tribe acting within and pursuant to the authority; a city; a county; or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

~~309)~~313) Watershed restoration project. A public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities.

~~310)~~314) A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

~~311)~~315) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a

~~312)~~316) stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

~~313)~~317) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the OHWM of the stream.

~~314)~~318) Waterward. Any point located on the waterside form the OHWM.

~~315)~~319) (231) Weir. A structure generally built perpendicular to the shoreline for the purpose of divert water or trapping sediment or other moving objects transported by water.

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~~316)~~320) (232) Well. A bored, drilled or driven shaft or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

~~317)~~321) Wellhead Protection Area (WHPA). The portion of a zone of contribution for a well, wellfield or spring, as defined using criteria established by the state Department of Ecology.

~~318)~~322) Wetlands. That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does 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.

~~319.~~323) However, wetlands may include those artificial wetlands specifically intentionally created from non-wetland areas to mitigate conversion of wetlands.

~~320.~~324) Wetland buffer. An area contiguous to and which protects a critical area that is required for the continual maintenance, functioning, and/or structural stability of a critical area.

~~321.~~325) Wetland edge. The line delineating the outer edge of a wetland established by using the procedures in the currently approved Federal Wetland Delineation Manual.

~~322.~~326) Wetland functions. The natural processes performed by wetlands and include functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting site for aquatic, terrestrial or avian species, maintaining the availability and quality of water such as purifying water, acting as recharge and discharge areas for groundwater aquifers and moderating surface water and storm water flows as well as performing other functions including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.R.R. Section 320.4(b)(2)(1988).

~~323.~~327) Wetland mitigation bank. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing advance mitigation to compensate for future, permitted impacts to similar resources.

~~324.~~328) Yard. An open space, other than a court, on the same lot with a building, unoccupied and unobstructed by a portion of a structure from the ground upward.

~~325.~~329) Yard, minimum required. That minimum yard, either front, side, or rear, the dimensions of which are set by various sections of the City's zoning code.

~~326.~~330) Zone of Contribution. The area surrounding a well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

# Part III. ADMINISTRATION AND PERMITTING

Section 12: there is hereby added a new section 16.55.110 to the Pullman City Code that reads as follows:

## 16.55.110 General Compliance.

RCW 90.58.140(3) requires local governments to establish a Program, consistent with the rules adopted by the Washington Department of Ecology, for the administration and enforcement of shoreline development.

Section 13: There is hereby added a new section 16.55.120 to the Pullman City Code that reads as follows:

## 16.55.120 Administrative Authority and Responsibility.

(1) SMP Administrator. The City shall designate an SMP Administrator, which shall be the City Planner or his or her designee. The SMP Administrator or his/her designee is hereby vested with the authority to:

(a) Administrate this SMP.

(b) Grant or deny exemptions from Shoreline Substantial Development Permit requirements of this SMP.

(c) To grant, grant with conditions, or deny Shoreline Substantial Development Permits and time extensions to shoreline permits and their revisions.

(d) Make field inspections as needed, and prepare or require reports on shoreline permit applications.

(e) Make written recommendations to the Board of Adjustment, Planning Commission and City Council as appropriate. The SMP Administrator shall make recommendations to the Board of Adjustment regarding Shoreline Variances and Shoreline Conditional Use Permits. The SMP Administrator shall recommend SMP amendments to the Planning Commission and City Council.

(f) Advise interested persons and prospective applicants as to the administrative

procedures and related components of this SMP.

(g) Determine and collect fees for all necessary permits as provided in City ordinances or resolutions. The

determination of which fees are required shall be established by resolution of the City Council.

(h) Make administrative decisions and interpretations of the policies and regulations of this SMP and the SMA.

(2) SEPA Official. The responsible SEPA official or his/her designee is authorized to conduct environmental review of all use and development activities subject to this SMP, pursuant to WAC 197-11 and RCW 43.21(C). The responsible official is designated in accordance with the Pullman City Code.

(3) Board of Adjustment. The Board of Adjustment is authorized to grant or deny Shoreline Variances and Shoreline Conditional Use Permits under this SMP.

(4) Hearing Examiner. The Hearing Examiner is authorized to decide on appeals of administrative decisions issued by the Administrator of this SMP.

(5) Planning Commission. The Planning Commission is vested with the authority to review the SMP as part of regular SMP updates required by RCW 90.58.080 as a major element of the City's planning and regulatory program, and make recommendations for amendments thereof to the City Council.

(6) City Council. The Pullman City Council is authorized to:

(a) Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

(b) Adopt all amendments to this SMP, after consideration of the recommendation of the Planning Commission. Amendments shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

Section 14: There is hereby added a new section 16.55.130 to the Pullman City Code that reads as follows:

## 16.55.130 Administration.

(1) This Master Program shall be administered according to the standards and criteria in RCW 90.58 and WAC 173-27.

In addition to the requirements of the Act, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(a) Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local government.

(2) Shoreline Substantial Development Permits and Shoreline Conditional Use Permits shall be subject to all of the applicable requirements of Chapter 17.10 (General Administration and Enforcement) and Subsection 16.55.160 (Shoreline Permits and Exemptions) of this SMP.

(3) Shoreline Variances shall be processed in the same manner as a variance from the City's zoning code (Title 17) and shall be subject to all applicable provisions of Chapters 17.10 (General Administration and Enforcement) and 17.15 (Board of Adjustment) and Subsection 16.55.160 (Shoreline Permits and Exemptions) of this Chapter.

(4) Appeals to the Shoreline Hearings Board of a final decision on a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, Shoreline Variance, or a decision on an appeal of an administrative action, may be filed by the applicant or any aggrieved party pursuant to RCW 90.58.180 within twenty-one (21) days of receipt of the final decision by the City or by Ecology as provided for in RCW 90.58.140(6).

(5) The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

Section 15: There is hereby added a new section 16.55.140 to the Pullman City Code that reads as follows:

## 16.55.140 Enforcement, Violations, and Penalties.

(1) The City of Pullman is authorized to enforce the provisions of this Chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated there pursuant to the enforcement and penalty provisions of WAC 173-27-270, 173-27-280, and 173-27-290.

(2) This Program will be enforced by the means and procedures set forth in the Pullman City Code.

Section 16: There is hereby added a new section 16.55.150 to the Pullman City Code that reads as follows:

## 16.55.150 Shoreline Activity Tracking.

(1) Tracking. The City will track all shoreline permits and exemption activities to evaluate whether the SMP is achieving no net loss of shoreline ecological functions. Activities to be tracked include development, conservation, restoration and mitigation, such as:

(a) New shoreline development

(b) Shoreline variances and the nature of the variance

(c) Compliance issues

(d) Net changes in impervious surface areas, including associated stormwater management

(e) Net changes in fill or armoring

(f) Net change in linear feet of flood hazard structures

(g) Net changes in vegetation (area, character)

(2) No Net Loss Report. Using the information collected in Subsection 16.55.150(1), a no net loss report shall be prepared every eight years as part of the City's SMP evaluation. Should the no net loss report show degradation of the baseline condition documented in the Final Shoreline Analysis Report (August 2014), changes to the SMP and/or Shoreline Restoration Plan shall be proposed at the time of the eight-year update to prevent further degradation and address the loss in ecological functions.

Section 17: There is hereby added a new section 16.55.160 to the Pullman City Code that reads as follows:

## 16.55.160 Shoreline Permits and Exemptions.

(1) Noticing Requirements.

(a) Applicants shall follow the noticing requirements of the City. At a minimum, the City shall provide notice in accordance with WAC 173-27-110 and shall be consistent with noticing requirements in the Pullman City Code.

(b) Per WAC 173-27-120, the City shall comply with special procedures (public notice timelines, appeal periods, etc.) for limited utility extension and bulkheads.

(2) Exemptions from a Substantial Development Permit Application and Interpretation.

(a) Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

(b) An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. To be authorized, all uses and development must be consistent with the policies, requirements and procedures of this SMP and the SMA. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

(c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

(d) If any part of a proposed development is not eligible for exemption, then a Shoreline

Substantial Development Permit is required for the entire proposed development project.

(e) The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the SMA and this SMP. Additionally, nothing shall interfere with the City's ability to require compliance with all other applicable laws and plans.

(3) Exemptions Listed.

(a) The shoreline activities listed in WAC 173-27-040 and RCW 90.58.030(3)(e), 90.58.140(9), 90.58.147, 90.58.355 and 90.58.515, or successor laws shall be considered exempt from the requirement to obtain a Shoreline Substantial Development Permit, but shall obtain a Letter or Statement of Exemption, as provided for in Subsections 16.55.160(2) and 16.55.160(4).

(b) Projects designed to improve fish or wildlife habitat or fish passage consistent with RCW 90.58.147.

(c) Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(i) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

(ii) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

**Commented [MP3]:** Remove?

(iii) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.

(iv) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(v) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

**Commented [JS4]:** C.L. Item 2017, c

**Commented [JS5]:** Check if entire section is needed.

(d) The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

(4) Letter or Statement of Exemption.

(a) Letter of Exemption

(i) A Letter of Exemption shall be issued by the City when a development application is determined to meet the listed criteria for an exemption and the development is subject to a section 404 permit under the Federal Water Pollution Control Act of 1972 (generally applying to any project which may involve discharge of dredge or fill material to any water or wetland area).

(ii) The Letter shall indicate the specific exemption provision from WAC 173-27-040 that is being applied to the development and provide a

summary of the City's analysis of the consistency of the project with this SMP and the SMA. The Letter shall be sent to the applicant and the Department of Ecology.

(b) Statement of Exemption

(i) The City may grant or deny requests for Statements of Exemption from the Shoreline

Substantial Development Permit requirement. The Statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the analysis of the consistency of the project with this Program and the Act.

(ii) The City shall issue a Statement of Exemption to an applicant whose project meets any of the exemptions listed in Subsection 16.55.160(3) when the City has determined that said project may alter or disturb the ground or vegetation.

(c) Letters and Statements of Exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the Program and Act.

(5) Permit Application Submittal Requirements

(a) Shoreline applications are classified as follows:

(i) Shoreline Substantial Development Permit

(ii) Shoreline Conditional Use Permit

(iii) Shoreline Variance

(iv) Shoreline Exemption

(b) Applications for Shoreline Substantial Development Permits, Shoreline Conditional Use Permits, Shoreline Variances, or Shoreline Exemptions shall be in a form prescribed and supplied by the City, including a combined permit application form.

(c) The contents of permit applications must be consistent with WAC 173-27-180 and Pullman City Code.

(d) Where this SMP requires more information than the minimum required by WAC 173-27-180, the SMP Administrator may vary or waive requirements beyond WAC 173-27-180 if the information is unnecessary to process the application.

(e) At the time of application, the applicant must pay the application fee as set by resolution of the Pullman City Council.

(6) Shoreline Substantial Development Permit.

(a) A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Subsection 16.55.160(2) (Exemptions from a Substantial Development Permit) or is not subject to the SMP per Section 16.55.050 (Applicability).

(b) A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

(i) The policies and procedures of the SMA;

(ii) The provisions of WAC 173-27; and

(iii) This SMP.

(c) The City may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

(d) Nothing shall interfere with the City's ability to require compliance with all other applicable plans and laws.

(7) Shoreline Conditional Use Permit. A Shoreline Conditional Use Permit is intended to allow for the flexibility and the exercise of judgement in the application of regulations in a manner consistent with the policies of the Act and this Master Program. While not

prohibited, these uses are an exception to the general rule.

(a) Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Board of Adjustment/Hearing Examiner and by Ecology. Shoreline Conditional Use Permit applications shall be processed consistent with this SMP and Chapter 17.125 (Conditional Use Permits).

(b) Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

(c) Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

(d) Uses which are classified or set forth in this SMP as conditional uses may be authorized provided that the applicant demonstrates that the criteria in WAC 173-27-160(1) have been met.

(e) In the granting of all Shoreline Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

(8) Shoreline Variance.

(a) The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Shoreline Variance applications shall be processed consistent with this SMP and Chapter 17.130 (Variances).

(b) Shoreline Variance permits should be granted in circumstances where denial of the permit would conflict with the goals of the SMA as listed in RCW

90.58.020. In all instances, the applicant must demonstrate that extraordinary circumstances exist

and the public interest shall suffer no substantial detrimental effect.

(c) Shoreline Variance permits for development and/or uses that will be located landward of the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(2) have been met.

(d) Shoreline Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate that the criteria in WAC 173-27-170(3) have been met.

(e) In the granting of all Shoreline Variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

Section 18: There is hereby added a new section 16.55.170 to the Pullman City Code that reads as follows:

## 16.55.170 Non-conforming Uses, Structures, Lots.

(1) Non-conforming uses or developments are shoreline uses or development which were lawfully constructed or established prior to the effective date of this Master Program as

approved by Ecology, or amendments to this Master Program as approved by Ecology, but which do not conform to present regulations or standards of this Master Program. Such uses shall conform to all applicable City regulations.

(2) Non-conforming Uses

(a) Any use which existed prior to adoption of this Master Program or applicability of this Master Program to the property and which is not listed as a permitted use shall be considered a non- conforming use.

(b) If a non-conforming use is replaced by a conforming use for any length of time, use of the property shall not revert to the non-conforming use. The mere presence of a structure shall not constitute the continuance of a non-conforming use.

(c) In accordance with Pullman City Code Chapter 17.30, when a non-conforming use is discontinued for a period of one year or more without replacement by a conforming use, legal conforming use status expires and further use of the structure or lot must be in compliance with the provisions of this Master Program.

(d) Time

(e) A use of property that is unlawful under other local, state, or federal laws shall not be deemed a non-conforming use.

(3) Non-conforming Structures.

(a) Structures that were legally established prior to adoption of this Master Program or that were in compliance with this Master Program at the time of initial establishment but, due to revision or amendment of this Master Program, have become noncompliant, are non- conforming uses that may continue without regard to ownership changes, so long as they are in compliance with this Program.

(b) In accordance with Pullman City Code Chapter 17.30, if any non-conforming use is not occupied or operated because its building has sustained damage amounting to less than seventy-five percent (75%) of its value, that use may be reestablished if construction of a new or repaired building begins within one year of the date the damage occurred.

(c) In accordance with Pullman City Code Chapter 17.30, non-conforming single-family dwellings in the C2

and C3 districts may be enlarged or expanded provided that the minimum yard requirements for residences in the R4 zone district are observed.

(4) Non-conforming Lots.

(a) Development on non-conforming lots shall comply with this Master Program and Pullman City Code Section

17.30.040. Any permitted use or structure may be erected on any existing lot or parcel. This provision shall apply even though such lot fails to meet the minimum dimensional requirements of this SMP, provided that such structure is allowed within the shoreline environment designation and all uses of the nonconforming lot shall comply with all other provisions of this Master Program and underlying zoning requirements including minimum yard requirements, dimensional standards, and lot coverage requirements.

(b) Structures and customary accessory buildings on non-conforming lots shall be set back from the OHWM to the greatest extent feasible. Development proposed inside required buffers shall apply mitigation sequencing and shall require a mitigation plan.

(5) Alteration, Expansion, or Restoration of Nonconforming Uses and Structures.

(a) Alteration, expansion, or restoration of non- conforming structures and uses are not allowed except as set forth in this Master Program and in Pullman City Code Section 17.30.030.

(b) Any nonconforming structure which is moved any distance must be brought into

conformance with this Master Program and the SMA.

(c) A structure for which a variance has been issued shall be considered a legal non-conforming structure, and the requirements of this Section shall apply as they apply to pre-existing non- conforming structures and uses.

(d) Legally existing structures used for a conforming use but which are non-conforming 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 non- conformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(e) Alteration or expansion of a non-conforming use or structure is allowed if necessary to accommodate handicapped accessibility requirements, fire code, or other life safety related requirements mandated by local, state, or federal law.

(6) Pre-existing Legal Residential Uses. Notwithstanding Subsections 16.55.170(1) through 16.55.170(4), the following shall apply only to pre-existing legal residential structures constructed prior to the effective date of this Chapter:

(a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following shall be considered a conforming structure: Setback, buffers, or yards; area; bulk; height; or density.

(b) The City shall allow redevelopment, expansion, or change with the class of occupancy, of the residential structure if it is consistent with the SMP, including requirements for no net loss of shoreline ecological functions. For example, vertical, lateral or anterior expansions that do not intrude farther into a required buffer and which are consistent with the maximum height allowed by this SMP and underlying zoning may be allowed.

(c) Pre-existing legal residential structures that are damaged or destroyed may be replaced to their prior size and location.

(d) For purposes of this Section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

(e) Nothing in this Section shall:

(i) Restrict the ability of this Chapter to limit development, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or

(ii) Affect the application of other federal, state, or City requirements to residential structures.

Section 19: There is hereby added a new section 16.55.180 to the Pullman City Code that reads as follows:

## 16.55.180 Amendment of Shoreline Master Program.

(1) This SMP carries out the policies of the Shoreline Management Act for the City of Pullman. It shall be reviewed and amended as appropriate in accordance with the review periods required in the SMA and in order to:

(a) Assure that this SMP complies with applicable law and guidelines in effect at the time of the review; and

(b) Assure consistency of this SMP with the City's codes and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(2) This SMP and all amendments thereto shall become effective 14 days from the date of the Washington Department of Ecology's written notice of final approval.

(3) The SMP may be amended annually or more frequently as needed consistent with WAC 173-26-100 through 120.

(4) Future amendments to this SMP may be initiated by any of the following:

(a) City of Pullman SMP Administrator;

(b) The City Planning Commission, upon their initiative, or at the request of the City Council by motion, or at the request of the SMP Administrator; and

(c) The City Council.

(5) Applications for SMP amendments shall specify the changes requested and any and all reasons therefore. Applications shall be made by a written request delivered to either the SMP Administrator or the City Council. Such written request shall contain information specified in the City's procedures for regulation amendments and information necessary to meet minimum public review procedures.

(6) The City shall accomplish the amendments in accordance with the procedures of the Shoreline Management Act and implementing rules including, but not limited to, RCW 90.58.080 and WAC 173-26-100.

(7) Proposals for amendment of this SMP shall be heard by the Planning Commission in a public hearing. After conducting a hearing and evaluating testimony regarding the application, including a recommendation from the SMP Administrator, the Planning Commission shall submit its recommendation to the City Council, who shall approve or deny the proposed amendment following their open record hearing.

(8) Prior to approval, the City shall make a finding that the amendment would accomplish (a) or (b) of this subsection, and must accomplish (c) of this subsection:

(a) The proposed amendment would make this Program more consistent with the SMA and/or any applicable Department of Ecology SMP Guidelines; or

(b) The proposed amendment would make this Program more equitable in its application to persons or property due to changed conditions in an area; and

(c) This Program and any future amendment hereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of August 2014 (the Final Shoreline Analysis Report).

~~(d)~~

(9) After approval or disapproval of an SMP amendment by the Department of Ecology as provided in RCW 90.58.090, the City shall publish a notice that the SMP amendment has been approved or disapproved by Ecology.

Section 20: Under Part IV. SHORELINE VISION AND GOALS, there is hereby added a new section 16.55.190 to the Pullman City Code that reads as follows:

## 16.55.190 Shoreline Vision.

It shall be the ultimate goal of the City of Pullman SMP to provide plans, policies and regulations consistent with the SMA (RCW 90.58) and with the SMP Guidelines (WAC 173-26), which will reflect the desires of the citizens of the City of Pullman regarding the balanced use of the City's shoreline.

The following statements of goals and policies are directed to address individual elements as outlined in the SMA and SMP Guidelines.

Section 21: There is hereby added a new section 16.55.200 to the Pullman City Code that reads as follows:

## 16.55.200 Shoreline Goals.

(1) Shoreline Use.

(a) Support shoreline uses that are consistent with the existing and historic pattern of development in the City of Pullman to maintain and enhance the local economy and expand visual and physical public access to the shoreline.

(b) Promote the best use of the City of Pullman shoreline through encouraging shoreline development and

modifications that are placed wisely, consistent with the physical limitations of the area; serve the needs and desires of the local citizens; and protect the functions and values of the shorelines.

(c) Assure a distribution and pattern of land use along the shoreline that balances protection of the existing character of the City as well as the shoreline environments, habitat, and ecological systems.

(2) Economic Development.

(a) Promote local economic opportunities and encourage development along shorelines that is compatible with existing environmental conditions and the desired land use character of the City of Pullman's shorelines. Shoreline economic growth and prosperity should take into account the historic development pattern and existing character of the built environment.

(b) Permit those commercial, industrial, recreational, and other developments that are appropriately located along the shoreline and which may contribute to the economic well-being of the City of Pullman while achieving no net loss of ecological function.

(c) Promote new water-dependent, water-related, and water-enjoyment economic development, with preference given to water-dependent uses, then water-related uses and water-enjoyment uses.

(3) Public Access.

(a) Preserve and protect opportunities for the public to enjoy the physical and aesthetic qualities of the City of Pullman's shorelines.

(b) Ensure an adequate supply of safe public access to the City of Pullman's shoreline.

(c) Encourage that alteration to the natural conditions of the shorelines, in those limited instances when authorized, shall be given priority for development

that provides opportunity for substantial numbers of people to enjoy the shorelines of the state, while maintaining no net loss of ecological function.

(4) Recreation.

(a) Protect and expand opportunities for recreation in the City of Pullman's shoreline areas, including but not limited to parks and other recreational areas.

(b) Encourage and maximize water-oriented recreational opportunities along the shoreline.

(5) Conservation.

(a) Encourage sound management of renewable shoreline resources and protection of non-renewable shoreline resources.

(b) Achieve sustainability of resource functions and values and no-net-loss of ecological functions by allowing shoreline development and modifications when impacts are minimized through mitigation sequencing and by encouraging and incentivizing restoration of ecological functions where they have been impaired.

(c) Promote and protect the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

(6) Transportation and Circulation.

(a) Address the location of existing and proposed transportation routes, terminals, and other public utilities and facilities used for the movement of people, vehicles, and goods and services in the City of Pullman's shorelines.

(b) Maintain adequate safety, environmental, and aesthetic standards for existing and new transportation systems within shoreline jurisdiction.

(c) Minimize conflicts between systems of circulation and shoreline uses when considering additions or modifications.

(7) Restoration.

(a) Upgrade shoreline ecological functions and aesthetics to a level commensurate with their importance to the community and to achievement of regional goals for water quality and habitat recovery, such as through the projects, programs and plans established within the SMP Shoreline Restoration

Plan.

(b) Facilitate the permitting for restoration projects, and coordinate with agencies, tribes, and non- profit groups to achieve effective restoration of shoreline ecological functions and maximize public funding.

(8) Archaeological, Historical, and Cultural Resources. Identify, preserve, protect and restore buildings, sites, or areas of the shoreline that have historic, cultural, archeological, scientific, or educational value.

(9) Flood Hazard Management. Protect the City of Pullman from losses and damage created by flooding along the shoreline.

# Part V. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS

Section 22: Under Part V. SHORELINE JURISDICTION AND ENVIRONMENT DESIGNATIONS, there is hereby added a new section to the Pullman City Code that reads as follows:

## 16.55.210 Shoreline Jurisdiction and Use Preferences.

(1) Definition.

(a) As defined by the Shoreline Management Act of 1971, shorelines include certain waters of the State plus their associated "shorelands." The waterbodies designated as shorelines of the State are streams whose mean annual flow is 20 cubic feet per second (cfs) or greater and lakes whose area is greater than 20 acres.

(b) Shorelands, as adopted by the City of Pullman and indicated on the Official Shoreline Maps available for review in the Department of Community Development, are defined as:

*"those lands extending landward for 200 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…." (RCW 90.58.030)*

The City of Pullman will not extend shoreline jurisdiction to encompass critical area buffers that otherwise extend outside of the minimum shoreline jurisdiction.

(c) The extent of shoreline jurisdiction is indicated on the Official Shoreline Maps available for review in the City Department of Community Development. The purpose of the Official Shoreline Maps is to identify Environment Designations (Section 16.55.220). The maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

(d) In circumstances where shoreline jurisdiction does not include an entire parcel, only that portion of the parcel within shoreline jurisdiction and any use, activity or development proposed within shoreline jurisdiction on that portion of the parcel is subject to this Shoreline Master Program.

(2) General Shoreline Use Preferences.

(a) This SMP adopts the following policy provided in RCW 90.58.020, and fully implements it to the extent of its authority under this SMP:

*"It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse*

**Commented [MP6]:** Ord 21-15. City changed planning department language to reflect department of community development.

*effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*

*In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and*

*shorelands of the state shall be recognized by the [D]epartment [of Ecology]. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter*

*90.58 RCW.*

*Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."*

(b) When determining allowable uses and resolving use conflicts on shorelines within jurisdiction consistent with the above policy, the following preferences and priorities as listed in WAC 173- 26-201(2)(d) shall be applied in the order presented below:

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent and associated water-related uses … Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for other water- related and water-enjoyment uses that are

compatible with ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Section 23: There is hereby added a new section 16.55.220 to the Pullman City Code that reads as follows:

## 16.55.220 Shoreline Environment Designations.

(1) Shoreline Residential.

(a) Purpose: The purpose of the Shoreline Residential environment is to accommodate residential development and appurtenant structures that are consistent with the SMP. An additional purpose is to provide appropriate public access and recreational uses.

(b) Designation Criteria: Assign a Shoreline Residential environment designation to areas that are predominantly single-family or multi-family residential development or are planned and platted for residential development.

(c) Management Policies:

(i) Shoreline development standards should ensure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

(ii) Multi-family and multiple-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

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

(iv) Commercial development should be limited to water-oriented uses and allowed only when the underlying zoning permits such uses.

(2) Shoreline Parks.

(a) Purpose: The purpose of the Shoreline Parks environment is to:

(i) Protect ecological functions of open space, floodplain and other sensitive public or protected lands and conserve existing natural resources and valuable historic and cultural areas while allowing a variety of compatible uses; and

(ii) Ensure appropriate management and development of existing and future public parks and recreation areas.

(b) Designation Criteria: Assign a Shoreline Parks environment designation to shoreline areas if any of the following characteristics apply:

(i) They are within existing or planned public parks or public lands intended to accommodate public access and recreational developments;

(ii) They are suitable for water-related or water- enjoyment uses;

(iii) They are open space, floodplain or other sensitive areas that should not be more intensively developed;

(iv) They have potential for ecological restoration;

(v) They retain important ecological functions, even though partially developed; or

(vi) They have the potential for development that is compatible with ecological restoration.

(c) Management Policies:

(i) Uses in the Shoreline Parks environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a non-permanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

(ii) Except in support of agriculture, aquaculture, and recreation uses, commercial and industrial uses should not be allowed.

(iii) Water-oriented uses should be given priority over nonwater-oriented uses. Water-dependent and water-enjoyment recreation facilities and

uses that do not deplete the resource over time, such as boating facilities, fishing, hunting, wildlife viewing trails, swimming beaches, and scientific, historical, cultural, and educational research uses, are preferred, provided adverse impacts to the shoreline are mitigated.

(iv) Shoreline development standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(v) Existing uses and development, including roadways and railroads, may be maintained and expanded consistent with provisions of this SMP.

(vi) Public access and public recreation objectives on public lands should be implemented when appropriate and when adverse ecological impacts can be mitigated.

(vii) Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions, and only when mitigation is applied.

(3) High Intensity.

(a) Purpose: The purpose of the High Intensity environment is to provide for high-intensity water- oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(b) Designation Criteria: Assign a High Intensity environment designation to shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

(c) Management Policies.

(i) Water-oriented commercial, industrial, and recreation uses should be given high priority in the High Intensity environment. First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or in areas of traditional non-water-oriented uses such as retail and similar uses in the Downtown. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Public benefits such as ecological restoration or public access may be required in association with nonwater-oriented development.

(ii) When considering shoreline environment designation amendment proposals, full utilization of existing high intensity areas should be achieved before further expansion of intensive development is allowed.

(iii) New development in the High Intensity designation should assure no net loss of shoreline ecological functions. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

(iv) Where feasible, visual and physical public access should be required as part of development in the High Intensity designation unless it already exists to serve the development or other safety, security, or fragile environmental conditions apply.

(v) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative separation.

(4) Aquatic.

(a) Purpose: The purpose of the Aquatic environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

(b) Designation Criteria: Assign an Aquatic environment designation to lands waterward of the ordinary high-water mark.

(c) Management Policies:

(i) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

(ii) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

(iii) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

(iv) All developments and uses should be located and designed to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(v) Shoreline uses and modifications should be designed and managed to prevent adverse impacts to ecological functions and ecosystem- wide processes, including degradation of water quality and alteration of natural hydrographic conditions. Adverse impacts should not be allowed except where necessary to achieve the objectives of the Shoreline Management Act, and then only when mitigated as necessary to assure no net loss of ecological functions.

(5) Environment Designation Interpretation.

(a) If disagreement develops as to the exact location of an environment designation boundary line, the Official Shoreline Maps shall prevail consistent with the following rules:

(i) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

(ii) In cases where boundary line adjustments or subdivisions occur, the designation applied to the parent parcel prior to the boundary line adjustment or subdivision shall not change as a result. The shoreline designation can be redesignated through an SMP amendment.

(iii) Boundaries indicated as approximately following roads and railroads shall be respectively construed to follow the nearest right-of-way edge.

(iv) Boundaries indicated as approximately parallel to or extensions of features indicated in (i), (ii), or (iii) of this subsection shall be so construed.

(b) In the event of an environment designation mapping error where the SMP update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the SMP Administrator shall apply the environment designation approved through the SMP Update or Amendment process and correct the map. Appeals of such interpretations may be filed pursuant to Part III (Administration and Permitting) and the City's appeal procedures in Section 16.39.170 (Appeals). Each appeal filed under Subsection 16.55.220(5)(b) shall be accompanied by a filing fee in such sum as the City Council may set by resolution. If the environment designation criteria were misapplied, but the map does not show an unintentional error (e.g. the SMP hearing and adoption record does not indicate another designation was intended), an SMP amendment may be obtained consistent with WAC 173-26-100 and Section 16.55.180 (Amendment of Shoreline Master Program).

(c) All shoreline areas waterward of the OHWM shall be designated Aquatic.

(d) All shoreline areas upland of the OHWM shall be designated Shoreline Residential, Shoreline Parks, or High Intensity.

(e) Only one environment designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature and the boundary shall be clearly noted on the map.

(6) Pre-Designation of Urban Growth Area. The City of Pullman has adopted shoreline environment pre- designations for shorelines located outside of City limits, but within the City's urban growth area. In the event of annexation of a shoreline, the affected area shall be subject to the Pullman Shoreline Master Program upon the effective date of the annexation.

(7) Official Shoreline Maps and Unmapped or Undesignated Shorelines.

(a) The Official Shoreline Maps at the time of SMP adoption, which illustrate the approximate shoreline jurisdiction and environment designations in the City, are available for review in the City Department of Community Development. The Official Shoreline Maps shall include the following language: "The City of Pullman certifies that this map, dated the 29th day of March, constitutes the Official Shoreline Map, as approved by Pullman City Council Ordinance No. 16-3 signed by the Mayor." The Official Shoreline Maps may be updated administratively or through an SMP amendment as indicated in Subsections 16.55.220(7)(b) through 16.55.220(7)(d). The Department of Ecology will be provided with electronic files of the Official Shoreline Maps when any updates are made. Minor mapping errors corrected administratively shall not be greater than 1.0 acre in size. If greater than

1.0 acre in size, a SMP amendment shall be completed within three years of finding the mapping error.

(b) Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of OHWM, floodway, and/or floodplain are automatically assigned the category of the contiguous waterward shoreline environment designation. Correction of these minor mapping inaccuracies may be made and incorporated into the Official Shoreline Maps without an SMP amendment.

(c) All other areas of shoreline jurisdiction that were neither mapped as jurisdiction nor assigned an environment designation shall be assigned a Shoreline Parks designation until the shoreline can be redesignated through an SMP amendment process conducted consistent with WAC 173-26-100 and Section 16.55.180 (Amendment of Shoreline Master Program).

(d) The actual location of the OHWM, floodplain, floodway, and wetland boundaries must be determined at the time a development is proposed. Wetland boundary and OHWM determinations are valid for five years from the date the determination is made. Floodplain and floodway boundaries should be assessed using FEMA maps or the most current technical information available.

(8) Any property or portion thereof shown in shoreline jurisdiction that is later found based on the most current information available at the time of an application to not meet the criteria for shoreline jurisdiction shall not be subject to the requirements of this SMP. The Official Shoreline Map is based on information available at the time of adoption of this SMP, but this SMP recognizes that better information about the locations of the OHWM, floodway, or associated wetlands, for example, may be developed at the site- specific scale and site conditions may change over time. Revisions to the Official Shoreline Maps may be made as outlined in Subsection 16.55.220(7)(a) without an SMP amendment.

# Part VI. GENERAL POLICIES AND REGULATIONS

Section 24: Under Part VI. GENERAL POLICIES AND REGULATIONS, there is hereby added a new section 16.55.230 to the Pullman City Code that reads as follows:

## 16.55.230 Introduction.

General policies and regulations are applicable to all uses and activities that occur within all Shoreline Environment Designations. The policies and regulations found in this chapter are intended to be used in conjunction with the more specific use and activity regulations found in the following chapters. These policies

apply to all uses within the jurisdiction, whether or not a separate shoreline permit is required. These policies may be used to condition any required permit or letter of exemption or statement of exemption.

Section 25: There is hereby added a new section 16.55.40 to the Pullman City Code that reads as follows:

## 16.55.240 Shoreline Use and Development Regulations.

(1) Policies.

(a) Give preference along the shoreline to water- oriented uses, while controlling pollution and preventing damage to the natural environment.

(b) Nonwater-oriented accessory development or use that does not require a shoreline location should be located landward of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments.

(c) Encourage uses and development that enhance or increase public access to the shoreline or provide some public benefit.

(d) Protect current agricultural uses on agricultural land and provide for new agricultural uses so that they are located and designed to ensure no net loss of ecological functions and do not have a significant adverse impact on other shoreline resources and values.

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

(f) Site plans and structural designs for shoreline development should acknowledge the water's proximity and value as an ecological and scenic resource. Development and uses should be designed in a manner that directs land alteration to the least sensitive portions of the site.

(2) Regulations.

(a) All uses in the shoreline shall comply with the City's development code and this Program.

(b) The shoreline use and modification table (Table 16.55.320-1) defines those uses that are permitted, conditional, or prohibited. All uses and modifications that are not specifically listed in the table are "unclassified." Unclassified uses shall be considered conditional uses and shall be governed by the policies in WAC 173-26.

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

(d) To the extent feasible, shoreline developments shall locate the water-oriented portion of their development along the shoreline and place all other facilities landward, or outside the shoreline jurisdiction in compliance with use preferences stated in RCW 90.58.020, WAC 173-26-241(2)(a)(iii) and 173-26-211(3)(b).

(e) In compliance with WAC 173-26-221(4)(d)(iv), where proposed development creates a conflict between water-dependent uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority.

(f) The design, construction, and operation of permitted uses in the shorelines shall minimize interference with the public's use of the water.

Section 26: There is hereby added a new section 16.55.250 to the Pullman City Code that reads as follows:

## 16.55.250 Environmental Protection.

(1) Policies.

(a) Protect all shorelines of the state in a manner consistent with all relevant

constitutional and other legal limitations on the regulation of private property so that there is no net loss of ecological functions from both individual permitted or exempt development.

(b) Protect and, where necessary, apply planning and land use measures to improve the quality and productivity of the City's environmental resources (air, ground and surface waters, and indigenous biology).

(c) Sustain a diverse, productive, and high quality natural environment for the use, health and enjoyment of City residents.

(2) Regulations.

(a) Ecological Functions. Uses and developments on the City's shoreline must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. New uses and developments must not have an unmitigated adverse impact on other shoreline functions fostered by this SMP.

(b) Protection of Critical Areas and Buffers. Critical areas, critical areas buffers, and shoreline buffers must be protected in accordance with the provisions of SMP Part VII (Shoreline Critical Areas Policies and Regulations).

(c) Mitigation Requirement. If a proposed shoreline use or development is entirely addressed by specific, objective standards (such as setback distances, pier dimensions, or materials requirements) contained in this SMP, then the mitigation sequencing analysis described in Subsection 16.55.250(2)(d) is not required. In the following circumstances, the applicant must provide a mitigation sequencing analysis as described in Subsection 16.55.250(2)(d):

(i) If a proposed shoreline use or development is addressed in any part by discretionary standards (such as standards requiring a particular action "if feasible" or requiring the minimization of development size) contained in this Chapter, then the mitigation sequencing analysis is required for the discretionary standard(s); or

(ii) When an action requires a Shoreline Conditional Use Permit or Shoreline Variance Permit; or

(iii) When specifically required by regulations contained in this SMP.

(d) Mitigation Sequence. In order to ensure that development activities contribute to meeting the no net loss provisions by avoiding, minimizing, and mitigating for adverse impacts to ecological functions or ecosystem-wide processes, an applicant required to complete a mitigation analysis pursuant to Subsection 16.55.250(2)(c) must describe how the proposal will follow the sequence of mitigation as defined below:

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

(ii) Minimize the 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) Rectify the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project or activity;

(iv) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action;

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

(vi) Monitor the impact and the compensation projects and take appropriate corrective measures.

(e) Adverse Impacts. Example of common actions that may result in adverse ecological impacts include, but are not limited to, the following:

(i) Removal of native plant communities in shoreline jurisdiction,

(ii) Removal of native or non-native trees that overhang the water,

(iii) Removal of native or non-native vegetation on slopes if that vegetation supports maintenance of slope stability and prevents surface erosion,

(iv) Removal or alteration of priority habitats or habitats for priority species,

(v) Construction of new or expanded in- and over- water structures,

(vi) Construction of new or expanded shoreline stabilizations,

(vii) New discharges of water into shoreline waters that may introduce pollutants,

(viii) Construction of new impervious surfaces whose discharges are not infiltrated and thus may alter hydrologic conditions of shoreline waterbodies, and/or

(ix) Changes in grading or fill that reduce floodplain capacity.

(f) Mitigation Plan. All proposed alterations to shoreline jurisdiction that may have adverse effects on ecological functions require mitigation sufficient to provide for and maintain the functions and values of the shoreline area or to prevent risk from a critical areas hazard. The applicant must develop and implement a mitigation plan prepared by a qualified professional.

Mitigation in excess of that necessary to ensure that development will result in no net loss of ecological functions will not be required by the City of Pullman but may be voluntarily performed by an applicant. In addition to any requirements found in Part VII (Shoreline Critical Areas Policies and Regulations) a mitigation plan must include:

(i) An inventory and assessment of the existing shoreline environment including relevant physical, chemical and biological elements;

(ii) A discussion of any federal, state, or local management recommendations which have been developed for critical areas or other species or habitats located on the site;

(iii) A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

(iv) A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

(v) Scaled drawings of existing and proposed conditions, materials specifications, and a minimum three-year maintenance and monitoring plan, including performance standards;

(vi) A contingency plan if mitigation fails to meet established success criteria; and

(vii) Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

(g) Alternative Mitigation. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions on site and in kind. To provide for

flexibility in the administration of the ecological protection provisions of this SMP, alternative mitigation approaches may be approved within shoreline jurisdiction where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this SMP and are scientifically supported, or are consistent with the Shoreline Restoration Plan or watershed-level management plans. Potential alternative mitigation tools include advance mitigation and mitigation banking. Authorization of alternative compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions, and may require approval by other state or federal agencies.

Section 27: There is hereby added a new section 16.55.260 to the Pullman City Code that reads as follows:

## 16.55.260 Shoreline Vegetation Conservation.

(1) Policies.

(a) Where new developments, uses and/or redevelopments are proposed, ensure shoreline vegetation, both upland and waterward of the OHWM, is conserved to maintain shoreline ecological functions and processes.

(b) Encourage management and control of noxious and invasive weeds. Control of such species should be done in a manner that retains onsite native vegetation, provides for erosion control, and protects water quality.

(2) Regulations.

(a) Vegetation conservation standards do not apply retroactively to existing legally established uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction.

(b) Vegetation within shoreline buffers, other stream buffers, wetlands and wetland buffers, WDFW-mapped priority habitats and species areas, and other critical areas within shoreline jurisdiction must be managed consistent with Part VII (Shoreline Critical Areas Policies and Regulations). Regulations specifying establishment and management of shoreline buffers are located in Section 16.55.400 (Fish and Wildlife Habitat Conservation Areas).

(c) Other vegetation within shoreline jurisdiction, but outside of shoreline buffers, creek buffers, wetlands and wetland buffers, and other WDFW-mapped priority habitats and species areas must be managed according to Section 16.55.250 (Environmental Protection) and any other regulations specific to vegetation management contained in this SMP and Pullman City Code.

(d) Vegetation clearing must be limited to the minimum necessary to accommodate approved shoreline development that is consistent with all other provisions of this SMP and Pullman City Code. Mitigation sequencing per Subsection 16.55.250(2)(d) must be applied unless specifically excluded by this SMP, so that the design and location of the structure or development, including septic drain fields, minimizes short- and long-term vegetation removal. The City may approve modifications or require minor site plan alterations to achieve maximum tree retention.

(e) Where vegetation removal conducted consistent with this Section results in adverse impacts to shoreline ecological function, new developments or site alterations are required to develop and implement a supplemental mitigation plan. Examples of actions that may result in adverse impacts include:

(i) Removal of native trees, shrubs or groundcovers;

(ii) Removal of non-native trees or shrubs that overhang aquatic areas or stabilize slopes or stream banks; or

(iii) Removal of native or non-native trees or shrubs that disrupts an existing vegetation corridor connecting the property to other critical areas or buffers.

Mitigation plans must be prepared by a qualified professional or under the supervision of a government agency or the Palouse Conservation District and must contain information required in Subsection 16.55.250(2)(f). All mitigation plantings shall be preferentially placed in the shoreline buffer unless the trees provide connectivity to upland habitats or other critical areas. Mitigation measures must be maintained over the life of the use or development.

(f) Where a tree poses a safety hazard, it may be removed or converted to a wildlife snag if the hazard cannot be eliminated by pruning, crown thinning, or other technique that maintains some habitat function.

(g) Selective pruning of trees for views is allowed. Selective pruning of trees for views does not include removal of understory vegetation and must not

compromise the health of the tree.

(h) Invasive Species Control.

(i) Hand removal or spot-spraying of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

(ii) Mechanical removal or large-scale (greater than 200 square feet) chemical treatment of invasive species.

(aa) Mechanical removal or large-scale chemical treatment of invasive species or noxious weeds included on the Washington State Noxious Weed List as a Class A, B or C weed on shorelands outside of steep or unstable slope areas is permitted.

(bb) Coordination with the applicable local conservation district is encouraged prior to undertaking invasive or noxious weed removal projects to ensure that the control and disposal technique is appropriate.

(cc) Where noxious weeds and invasive species removal results in bare soils that may be subject to erosion or recolonization by invasive or noxious species, the area must be stabilized using best management practices and replanted with native plants (in or outside of shoreline or critical area buffers) or suitable non-native plants (outside of shoreline or critical area buffers). The replanted vegetation must be similar in size and structure at maturity to the removed vegetation.

(dd) Invasive species removal efforts that exceed one-quarter acre should be phased if feasible to minimize potential erosion and sedimentation impacts.

(iii) Aquatic weed control must only be permitted where the presence of aquatic weeds will adversely affect native plant communities, fish and wildlife habitats, or an existing water-dependent recreational use. Aquatic weed control efforts must comply with all applicable laws and standards.

Section 28: There is hereby added a new section 16.55.270 to the Pullman City Code that reads as follows:

## 16.55.270 Water Quality, Stormwater, and Nonpoint Pollution.

(1) Policies.

(a) Maintain and improve the water quality and quantity of the City's shorelines and preserve surface and groundwater for the beneficial use of the City's citizens and wildlife over the long term.

(b) Prevent impacts to water quality and surface water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities or recreational opportunities.

(c) Encourage effective erosion and sedimentation controls for construction in shoreline areas.

(2) Regulations.

(a) Do not degrade ecological functions. Design, construction and operation of shoreline uses and developments shall incorporate all known, available, and reasonable methods of preventing, controlling, and treating stormwater to protect and maintain surface and ground water quantity and quality so that there is no net loss of ecological functions.

(b) Do not degrade views and recreation opportunities. Design, construction and operation of shoreline uses and developments shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws, so that significant impacts to aesthetic qualities (e.g., water color) or recreational opportunities (e.g., safe swimming and

fishing) do not occur.

(c) Requirements for new development.

(i) New development and re-development shall manage short-term and long-term stormwater runoff to avoid and minimize potential adverse effects on shoreline ecological functions through compliance with the latest edition of the Stormwater Management Manual for Eastern

Washington (2004) or approved equivalent. If certain thresholds are not met by a development that trigger compliance with the Stormwater Management Manual or approved equivalent, best management practices (BMPs) must still be employed to avoid and minimize potential adverse effects.

(ii) When the Stormwater Management Manual applies, deviations from the standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.

(d) Sewage management. New developments or failing septic systems shall connect to an existing municipal sewer service system if feasible, or install a system or make system corrections approved by Whitman County Public Health Department.

(e) Materials requirements. All materials that may come in contact with water shall be untreated or approved treated wood, concrete, approved plastic composites, or steel that will not adversely affect water quality or aquatic plants or animals.

(f) Storage. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shoreline jurisdiction without adequate secondary containment and an emergency spill response plan in place.

Section 29: There is hereby added a new section 16.55.280 to the Pullman City Code that reads as follows:

## 16.55.280 Flood Hazard Management.

(1) Policies.

(a) Recognize and protect the hydrologic functions of floodplains by limiting the use of structural flood hazard reduction measures except where they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

(b) Ensure developments subject to damage or that could result in loss of life do not locate in areas of known flood hazards unless it can be demonstrated by the project proponent that the development is sited, designed and engineered for long-term structural integrity, and that life and property on and off-site are not subject to increased hazards as a result of the development.

(c) Limit new development or uses in shoreline jurisdiction, including subdivision of land, that would likely require structural flood hazard reduction measures.

(2) Regulations.

(a) Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, including Section 16.55.250 (Environmental Protection) and Section 16.55.380 (Frequently Flooded Areas) as well as applicable guidelines of the Federal Emergency Management Agency and an approved flood hazard management plan.

(b) The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b). The Channel Migration Zone Maps are available for review in the Department of Community Development. Applicants for shoreline development or modification may submit

a site-specific CMZ study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-

26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ study must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

(c) The following uses and activities may be authorized within the CMZ or floodway, provided they are also consistent with Section 16.55.380 (Frequently Flooded Areas):

(i) Actions that protect or restore the ecosystem- wide processes or ecological functions or development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

(ii) New development or redevelopment landward of existing legal structures, such as levees, that prevent active channel movement and flooding.

(iii) Existing and ongoing agricultural activities provided that no new restrictions to channel movement are proposed.

*(iv)* Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures, including trails, where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. *(For the purposes of this Section, "unreasonable and disproportionate" means that locations outside of the floodway or CMZ would add more than 20% to the total project cost. Other methods to determine unreasonable and disproportionate cost may be used on a case- by-case basis with approval of the SMP Administrator. [20% has been used as a*

*threshold by WSDOT and the Federal Department of Justice for ADA standards])* Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

(v) New or redeveloped measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measures do not interfere with fluvial hydrological and geo- morphological processes normally acting in natural conditions, and that the measures include appropriate mitigation of adverse impacts on ecological functions associated with the river or stream.

(vi) Water-dependent installations which by their very nature must be in the floodway.

(vii) Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.

(viii) Repair and maintenance of existing legally established use and developments, provided that channel migration is not further limited, flood hazards to other uses are not increased, and significant adverse ecological impacts are avoided.

(ix) Uses and developments allowed in the floodway under Section 16.55.380 (Frequently Flooded Areas) provided they are otherwise consistent with all provisions of Part VII (Shoreline Critical Areas Policies and Regulations) and other requirements of this SMP.

(d) Flood hazard reduction measures shall not result in channelization of normal stream flows, interfere with natural hydraulic processes such as channel

migration, or undermine existing structures or downstream banks.

(e) New development in shoreline jurisdiction, including the subdivision of land, shall not be permitted if it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

(f) New public and private structural flood hazard reduction measures:

(i) Shall not be approved, unless a scientific and engineering analysis demonstrates the following:

(aa) That they are necessary to protect existing development;

(bb) That nonstructural measures, such as buffers and setbacks, land use controls, wetland restoration, dike removal, use or structure removal or relocation, biotechnical measures, and stormwater management programs are not feasible;

(cc) That adverse effects upon adjacent properties will not result relative to increased floodwater depths and velocities during the base flood or other more frequent flood occurrences;

(dd) That the ability of natural drainage ways to adequately drain floodwaters after a flooding event is not impaired;

(ee) That the proposal has been coordinated through the appropriate diking district where applicable, and that potential adverse effects upon other affected diking districts have been documented; and,

(ff) That adverse impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss.

(ii) Shall be consistent with an approved comprehensive flood hazard management plan.

(iii) Shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration, or when no other alternative location to reduce flood hazard to existing development is feasible as determined by the SMP Administrator.

(g) New public structural flood hazard reduction measures, such as levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant adverse ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(h) In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing City- authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications and shall comply with all other provisions of this Section and this SMP that are not strictly prohibited by the approving flood hazard agency.

(i) The removal of gravel or other riverbed material for flood management purposes shall be consistent with Section 16.55.530 (Dredging and Dredge Material Disposal) and be allowed only after a

biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

Section 30: There is hereby added a new section 16.55.290 to the Pullman City Code that reads as follows:

## 16.55.290 Archaeological, Historical, and Cultural Resources.

(1) Policies.

(a) Continue to regulate archaeological, historic, and cultural resources.

(b) Due to the limited and irreplaceable nature, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, should be prevented.

(2) Regulations.

(a) If any archeological resources are uncovered during excavations in shoreline jurisdiction, work must be stopped and the developer and property owners must notify the City of Pullman, the State Department of Archaeology and Historic Preservation, as well as any affected Indian Tribes.

(b) Permits issued in areas known to have, or suspected of having, archeological artifacts or resources shall require a site inspection or evaluation by a professional archaeologist in coordination with affected Tribes prior to initiating disturbance. Cost of the evaluation and inspection is the responsibility of the permit applicant. Those artifacts deemed significant shall be recovered before work begins or resumes.

Section 31: There is hereby added a new section 16.55.300 to the Pullman City Code that reads as follows:

## 16.55.300 Public Access.

(1) Policies.

(a) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while recognizing that public access does not include the right to enter upon or cross private property, except on dedicated public rights of way or easements or where development is specifically designed to accommodate public access.

(b) Consistent with the overall best interest of the state and the people of the City of Pullman, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including water views, by regulating the design, construction, and operation of permitted uses in the City's shoreline jurisdiction.

(c) Recognize and facilitate implementation of existing City parks, recreation, and open space plans.

(d) Identify opportunities to improve and diversify public access along the shorelines that could expand public access and contribute to long-term planning goals identified in any City parks, recreation, and/or open space plans.

(2) Regulations.

(a) Where feasible, new development and uses shall be designed and operated to avoid and minimize blocking, reducing, or adversely interfering with the public's physical or visual access to the water and shorelines.

(b) The City adopts the City of Pullman 2014-18 Parks & Recreation Five Year Plan by reference as its shoreline public access plan for the City's shorelines as it exists now and amended in the future.

(c) In compliance with RCW 35.79.035, public access provided by shoreline street ends, public utilities, and rights of way shall not be diminished.

(d) Existing public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

(e) Shoreline substantial developments and shoreline conditional uses shall provide

for safe and convenient public access to and along the shoreline where any of the following conditions are present:

(i) The development is proposed or funded by a public entity or is on public lands;

(ii) The nature of the proposed use, activity or development will likely result in an increased demand for public access to shoreline;

(iii) The proposed use, activity or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a nonwater-oriented commercial or industrial use; or

(iv) The proposed use, activity or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the Public Trust Doctrine.

(v) The proposed use is a multiple-unit residential development or a subdivision of land for more than four parcels.

(f) An applicant shall not be required to provide public access where the City determines that one or more of the following conditions apply:

(i) Proposed use, activity or development only involves the construction of four or fewer single-family or multi-family dwellings or subdivision of four or fewer lots;

(ii) The proposed use, activity or development only involves agricultural activities;

(iii) The nature of the use, activity or development or the characteristics of the site make public access requirements inappropriate due to health, safety or environmental hazards. The proponent shall carry the burden to demonstrate by substantial evidence the existence of unavoidable or unmitigable threats or hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

(iv) The proposed uses, activity or development has security requirements that are not feasible to address through the application of alternative design features or other measures;

(v) The economic cost of providing for public access upon the site is unreasonably disproportionate to the total long-term economic value of the proposed use, activity, or development.

(vi) Significant unmitigable harm to the shoreline environment would be likely to result from an increase, expansion or extension of public access upon the site;

(vii) Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline;

(g) Public access locations shall be clearly marked and available to the public.

(h) The City may condition public access proposals to ensure compatibility with existing public access or transportation facilities, address environmental conditions or environmental impacts, and/or address compatibility with adjacent properties. Public access facilities shall be made compatible with adjacent private properties through the use of techniques to define the separation between public

and private space, including but not limited to, fencing, vegetation, and elevation separations.

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

(j) The City shall pursue public access to publicly owned lands and develop a coordinated system of linked public access wherever possible.

(k) Where public access is provided, it shall be designed and located to achieve no

net loss of existing shoreline ecological function.

Section 32: There is hereby added a new section 16.55.310 to the Pullman City Code that reads as follows:

## 16.55.310 Unclassified Uses.

Uses that are not classified or set forth herein may only be authorized as conditional uses provided the applicant can demonstrate that the criteria set forth in Subsection 16.55.160(7) of the SMP are met. Unclassified uses approved as conditional uses should also remain consistent with the policies of this Program and RCW 90.58.020.

Section 33: There is hereby added a new section 16.55.320 to the Pullman City Code that reads as follows:

## 16.55.320 Shoreline Use and Modification Table.

All uses and developments in the Town's shoreline jurisdiction shall be allowed or prohibited consistent with the Use and Modification Table below. Refer to the text section of this Program for all applicable provisions related to specific uses and modification standards.

**Table 16.55.320-1 Shoreline Use and Modification Table**

| Shoreline Use or Modification | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:** **P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1] C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP** **X = Prohibited** **Use N/A = Not Applicable** | | | | |
| **Agriculture** | | | | |
| Existing Agricultural Activities | Not regulated under this SMP | | | |
| New Agricultural Activities | C | P | P | N/A |
| Agricultural Related Activities | C | X | P | N/A |
| **Aquaculture** | | | | |
| Commercial | X | X | X | X |

| Shoreline Use or Modification | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:**<br>**P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1] C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP**<br>**X = Prohibited**<br>**Use N/A = Not Applicable** | | | | |
| Non-commercial | X | P | P | P |
| **Boating Facilities** | | | | |
| Boating Facilities | X | X | X | X |
| **Breakwaters, Jetties, Weirs and Groins** | | | | |
| To protect or restore ecological functions | P | P | P | P |
| All other purposes | C | C | C | C |
| **Commercial Development** | | | | |
| Visitor-serving uses | C | C | P | C |
| Recreation concessions | P | P | P | P |
| Other retail, trade or service | | | | |
| General | C | C | C | C |
| Separated from Shoreline[2] | C | P | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | C | P | P | P |
| **Dredging and Dredge Material Disposal** | | | | |
| Dredging | N/A | N/A | N/A | P |
| Dredge Material Disposal[3] | X | C | P | C |
| **Fill and Excavation** | | | | |
| Waterward of the OHWM - restoration | N/A | N/A | N/A | P |
| Waterward of the OHWM - other | N/A | N/A | N/A | C |
| Upland of the OHWM | P | P | P | N/A |
| **Flood Hazard Management** | | | | |
| Flood Hazard Facilities | P | P | P | C |
| **Forest Practices** | | | | |
| Forest Practices | X | X | X | N/A |
| **Industrial Development** | | | | |
| Water-Oriented | X | X | P | P |
| Nonwater-Oriented | | | | |
| General | X | X | C | X |

| | | | | |
|---|---|---|---|---|
| Separated from Shoreline[2] | X | X | P | N/A |
| Mixed-use project that includes a Water-Dependent Use | X | X | P | P |
| **In-Stream Structures** | | | | |
| To protect public facilities; protect, restore, or monitor ecological functions or processes; protect water-dependent uses; or support agriculture | P | P | P | P |
| Other | C | C | P | See adjacent upland designation |
| **Mining** | | | | |
| Mining | X | X | X | X |
| **Recreational Development** | | | | |
| Water-Oriented | P | P | P | P |
| Nonwater-Oriented | | | | |
| General | C | C | C | X |
| Separated from shoreline[2] | P | P | P | N/A |
| **Redevelopment, Repair, and Maintenance** | | | | |
| Redevelopment, Repair, and Maintenance Projects | P | P | P | P |
| **Residential Development** | | | | |
| Single-Family Dwelling | P | X | X | X |
| Multi-Family Dwelling | C | X | P | X |
| Manufactured Homes | New: C<br>Existing: P | X | X | X |
| **Shoreline Restoration and Enhancement** | | | | |
| Shoreline Restoration and Enhancement Projects | P | P | P | P |
| **Shoreline Stabilization** | | | | |
| New Hard Stabilization | P | C | P | See adjacent upland designation |
| New Soft Stabilization | P | P | P | See adjacent upland designation |

| Shoreline Use or Modification | Shoreline Residential | Shoreline Parks | High Intensity | Aquatic |
|---|---|---|---|---|
| **Key:** **P = Permitted use (Substantial Development Permit or Exemption) subject to policies and regulations of this SMP[1] C = Shoreline Conditional Use Permit subject to policies and regulations of this SMP** **X = Prohibited Use N/A = Not Applicable** | | | | |
| Repair and Replacement | P | P | P | P |
| **Transportation and Parking** | | | | |
| Expansion of Existing Transportation and Parking Facilities | P | P | P | C |
| New Access Roads Serving Permitted Uses | P | P | P | N/A |
| New Highways, Freeways, Arterials & Collectors | C | P | P | N/A |
| New Bridges | C | C | P | C |
| New Railways | C | C | P | C |
| New Airstrips | X | X | X | N/A |
| New Trails | P | P | P | P |
| New Parking to Support Authorized Use[4] | P | P | P | N/A |
| **Utilities** | | | | |
| Expansion of Existing Utilities | P | P | P | C |
| New Utility Services Accessory to Individual Shoreline Projects | P | P | P | C |
| New Utility Services to Projects outside Shoreline Jurisdiction | C | C | P | C |
| New Power Generating Facilities | C | C | P | C |
| New Utility Transmission Lines | P | P | P | C |
| New Utility Services, General | P | P | P | C |
| New Wastewater Treatment Facility | C | C | C | C |

[1] The determination of whether a permitted use requires a Shoreline Substantial Development Permit or is exempt from a permit depends on whether the specific proposal meets the criteria for a shoreline exemption as identified in Subsection 16.55.160(3) and WAC 173-27-040. This determination is made by the Shoreline Administrator as outlined in Subsection 16.55.120(1).

[2] Note: Sites "separated from shoreline" are those sites physically separated from the shoreline by another property or public right of way.

[3] Any disposal of dredge material within a channel migration zone requires a Shoreline Conditional Use Permit. A SCUP is not required for discharges of dredge material into the flowing current of a river or in deep water within the channel where it does not substantially affect the geo-hydrologic character of the channel migration zone.

[4] Parking as a primary use is prohibited in all designations per WAC 173-26-241(3)(k)).

Section 34: There is hereby added a new section 16.55.330 to the Pullman City Code that reads as follows:

## 16.55.330 Shoreline Development Standards.

(1) Minimum Standards. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 16.55.330-1. In addition, shoreline developments shall comply with all other dimensional requirements of the Pullman City Code.

(2) Departures from Standards. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

**Table 16.55.330-1**

| **Development Standard** | **Shoreline Residential** | **Shoreline Residential - Urban Growth Area** | **Shoreline Parks** | **High Intensity** |
|---|---|---|---|---|
| | **R1: SF Residential** **R2: Low Density MF Residential** **R4: High Density MF Residential** **MHP: Manufactured Home Park** **Overlay District C2: CBD** **C3: General Commercial** **I2: Heavy Industrial** | | | |
| Minimum Lot Size | R2: 6,000 sf<br>R4: 5,000 sf<br>C3: 10,000 sf<br>MHP: Refer to Subsection 17.105.040(2)(c) | R1: 6,000 sf<br>R2: 6,000 sf | C3: 10,000 sf<br>R2: 6,000 sf<br>WSU: Refer to Subsection 17.90.030 | R1: 6,000 sf<br>I2: 10,000 sf (min. 75 ft street frontage)<br>C3: 10,000 sf |
| Minimum Lot Width | R2: the greater of 60 ft or 25% of lot depth<br>R4: the greater of 50 ft or 25% of lot depth<br>C3: N/A<br>MHP: Refer to Subsection 17.105.040(2)(c) | The greater of 125 feet or 25% of lot depth as measured where the property lines intersect the OHWM | C3: N/A<br>R2: the greater of 60 ft or 25% of lot depth WSU: Refer to Subsection 17.90.030 | R1: the greater of 60 ft or 25% of lot depth<br>I2: N/A<br>C3: N/A |
| Building Height Maximum [1] | 35 ft | 35 ft | 35 ft [2] | 35 ft [2] |
| Shoreline Buffer | Refer to Subsection | Refer to Subsection | Refer to Subsection | Refer to Subsection |

| | | | | |
|---|---|---|---|---|
| | 16.55.400(4)(c)(iv) | 16.55.400(4)(c)(iv) | 16.55.400(4)(c)(iv) | 16.55.400(4)(c)(iv) |

[1] Utility facilities and bridges are not required to meet the 35-foot height limit standard.

[2] If a property has an underlying zoning classification pursuant to Title 17 that allows buildings taller than 35 feet, a building or structure may be constructed on that property to the height limit of the underlying zone, subject to the applicant demonstrating the following to the satisfaction of the SMP Administrator:

a. Demonstrates overriding considerations of the public interest will be served; and,

b. Demonstrates that the proposal will not obstruct the view of a substantial number of residences on areas adjoining such shorelines or impair views from public lands or impair designated scenic vistas.

# Part VII. SHORELINE CRITICAL AREAS POLICIES AND REGULATIONS

Section 35: Under Part VII. SHORELINE CRITICAL AREAS POLICIES AND REGULATIONS, there is hereby added a new section 16.55.340 to the Pullman City Code that reads as follows:

## 16.55.340 Policies.

(1) Identify and protect critical fish and wildlife habitat from destruction or encroachment of incompatible uses.

(2) Preserve natural wetlands that are important wildlife and game habitat or recreational areas.

(3) Protect life and property by avoiding inappropriate developments in areas susceptible to natural disasters and hazards, such as floodplains and steep slopes.

Section 36: There is hereby added a new section 16.55.350 to the Pullman City Code that reads as follows:

## 16.55.350 General Regulations.

(1) Purpose.

(a) The purpose of this Chapter is to designate and classify ecologically sensitive and hazardous areas within shoreline jurisdiction and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

(b) This Chapter is established to implement the goals, policies, guidelines, and requirements of the City of Pullman Comprehensive Plan, the Shoreline Management Act, and the Growth Management Act.

(c) The City finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the City and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; and recreation. These beneficial functions are not listed in order of priority.

(d) By identifying development impacts to critical areas, this Chapter seeks to:

(i) Protect members of the public, public resources, and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;

(ii) Protect unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;

(iii) Direct activities not dependent on critical area resources to less

ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and,

(iv) Prevent cumulative adverse environmental impacts to water quality, wetlands and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas and habitat conservation areas.

(e) This Chapter is intended to protect critical areas in accordance with the Shoreline Management Act and through the application of the most current, accurate, and complete scientific and technical information available, and in consultation with state and federal agencies and other qualified professionals.

(f) This Chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of property.

(g) The City's enactment or enforcement of this Chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.

(2) Authority and Applicability.

(a) The SMP Administrator is given the authority to administer and enforce the provisions of this Chapter to accomplish the stated purpose.

(b) The City shall not approve any shoreline development permit or subdivision, or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first assuring compliance with the requirements of this Chapter.

(c) The provisions of this Chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the City's shoreline jurisdiction, whether or not a development permit or other authorization is

required and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the City's shoreline jurisdiction. No person, company, agency, or applicant shall alter a critical area or buffer in shoreline jurisdiction except as consistent with the purposes and requirements of this Chapter.

(d) Approval of a development permit pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the provisions of this Chapter.

(3) Relationship to Other Regulations.

(a) These critical area regulations shall apply as an overlay to the City's zoning code (Title 17) and other applicable regulations adopted by the City, including but not limited to design standards, building code, and State Environmental Policy Act (SEPA) procedures.

(b) These critical area regulations shall apply concurrently with review conducted under SEPA, as locally adopted.

(c) Any individual critical area adjoined by another type of critical area shall meet the requirements that provide the most protection to the critical areas involved. When any provision of this Chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this Chapter, that which provides more protection to the critical areas shall apply.

(d) Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, HPA permits, Army Corps of Engineers Section 404 permits). The applicant is responsible for complying with these requirements, apart from the process established in this Chapter. Where applicable the SMP Administrator will encourage use

of information such as permit applications to other agencies or special studies

prepared in response to other regulatory requirements to support required documentation submitted for critical areas review.

(4) Appeals. Any aggrieved party may appeal final decisions of the SMP Administrator regarding critical area reports required under Subsections 16.55.350(10), 16.55.360(4), and 16.55.400(2). An appeal of such decisions shall be heard by the Hearing Examiner in accordance with the procedures set forth in Sections 16.55.120 (Administrative Authority and Responsibility),

16.55.130 (Administration), and 16.39.170 (Appeals). Each appeal filed under Subsection 16.55.350(4) shall be accompanied by a filing fee in such sum as the City Council may set by resolution.

(5) Interpretation. The SMP Administrator may, acting on his or her own initiative or in response to an inquiry, issue interpretations of any provision of this Chapter. The SMP Administrator shall base his or her interpretations on the defined or common meaning of the words of the provision and the general purpose of the provision. In the interpretation and application of this ordinance, the provisions of this Chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this ordinance, and shall be deemed to neither limit nor repeal any other provisions under state statute.

(6) Jurisdiction.

(a) The City shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas within shoreline jurisdiction, consistent with the most current, accurate, and complete scientific information available, and the provisions contained within this Chapter.

(b) Critical areas regulated by this Chapter include:

(i) Wetlands (16.55.360);

(ii) Critical aquifer recharge areas (16.55.370);

(iii) Frequently flooded areas (16.55.380);

(iv) Geologically hazardous areas (16.55.390); and

(v) Fish and wildlife habitat conservation areas (16.55.400).

(c) All areas within the City's shoreline jurisdiction meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter.

(7) Protection of Critical Areas. Any action taken pursuant to this Chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the most current, accurate, and complete scientific information available. All actions and developments shall be designed and constructed in accordance with the mitigation sequencing requirements in Subsection 16.55.250(2)(d) to avoid, minimize and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

(8) Allowed Activities.

(a) Process. The SMP Administrator shall allow activities that are verified to comply with this Chapter, provided the appropriate Shoreline Permit or Letter/Statement of Exemption is obtained, if required. Documentation of allowed activities shall be maintained on file at the department.

(b) Allowed Activities Shall Avoid Impacts to Critical Areas. All allowed activities shall use reasonable methods to avoid potential impacts to critical areas, using best management practices that result in the least amount of impact to the critical areas where practicable. Designation as an allowed activity does not give permission to degrade a critical area or ignore risk from natural hazards.

Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality

protection, and regulation of chemical applications. The City shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.

(c) The following activities shall be allowed in critical areas and their buffers without a critical areas report, provided they are otherwise consistent with applicable local, state, and federal laws; they are conducted using best management practices and at a time and in a manner designed to minimize adverse impacts to the critical area. If a proposed or unauthorized activity does not meet the qualifications specified for that activity in this Subsection, it shall be addressed through the general regulations set forth in Subsection 16.55.350(9) or the enforcement provisions set forth in Section 16.55.140, as applicable. Allowed activities are as follows:

(i) Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or those that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this Chapter. Emergency actions in shoreline jurisdiction that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the SMP Administrator

within one working day following commencement of the emergency activity. Within 30 days, the SMP Administrator shall determine if the action taken was within the scope of the emergency actions allowed in this Paragraph. If the SMP Administrator determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then provisions of Section 16.55.140 (Enforcement, Violations and Penalties) and 16.55.350(17) (Unauthorized Critical Area Alterations and Enforcement) shall apply. After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance with the critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the critical area report and mitigation plan shall be reviewed by the SMP Administrator in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner;

(ii) Operation, Maintenance or Repair. Operation, normal and routine maintenance or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees or drainage systems that do not require a development permit, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair;

(iii) Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching;

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(iv) Permit Requests Subsequent to Previous Critical Area Review. Development permits that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

(aa) the provisions of this Chapter have been previously addressed as part of another approval;

(bb) there have been no material changes in the potential impact to the critical area or buffer since the prior review;

(cc) there is no new information available that is applicable to any critical area review of the site or particular critical area;

(dd) the permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit of approval; and

(ee) compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

(v) Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement, provided that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

(vi) Activities within the Improved Right-of Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a City authorized private roadway, except those activities that alter a wetland or watercourse (such as culverts or bridges) or result in the transport of sediment or increased stormwater;

(vii) Planting of Vegetation. Planting of vegetation within a critical area or its buffer, provided a landscaping plan for this activity has been approved by the City;

(viii) Conservation Activities. Conservation, restoration, or preservation of soil, water, vegetation, fish, and other wildlife that does not entail changing the structure or functions of the existing critical area;

(ix) Pedestrian/Bicycle Trails. Pedestrian/bicycle trails that are located in buffer areas but not within wetlands or habitat conservation areas, where the trail surface meets all other requirements including water quality standards set forth in the City's Design Standards;

(x) Select Vegetation Removal Activities. Select vegetation removal activities are allowed. Accepted vegetation removal activities include: a) removing and controlling invasive or noxious weeds; b) harvesting wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the critical area by changing existing topography,

water conditions, or water sources; c) removing trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; or d) removing vegetation to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act (Chapter 76.09 RCW). Unless otherwise provided or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;

(xi) Chemical Applications. The application of herbicides, pesticides, organic or mineral- derived fertilizers, or other hazardous substances, if necessary, provided that their use shall be conducted in accordance

with applicable state and federal law;

(xii) Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

(xiii) Boundary Markers. Installation or modification of boundary markers.

(9) General Regulations. Shoreline permits or shoreline exemptions, and any other City-required permits, for activities within critical areas in shoreline jurisdiction, shall be subject to review under provisions of this Chapter.

(a) As part of this review, the City shall:

(i) Verify the information submitted by the applicant;

(ii) Evaluate the project area and vicinity for critical areas;

(iii) For wetlands or habitat conservation areas, require that their boundaries be verified by a qualified professional, and require that a map of such boundaries be submitted to the SMP Administrator as part of the application for the applicable development permit if the project is within 200 feet of a wetland or habitat conservation area for which the boundaries have not been certified and depicted on the City critical area maps; and

(iv) Determine whether the proposed project is likely to impact the functions or values of critical areas.

(b) If the SMP Administrator determines that the proposed project is likely to impact a critical area, the SMP Administrator shall:

(i) Notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed;

(ii) Require a critical area report from the applicant that has been prepared by a qualified professional;

(iii) Review and evaluate the critical area report to determine whether the development proposal conforms to the purposes and standards of this Chapter;

(iv) Assess potential impacts to the critical area and determine if they are necessary and unavoidable;

(v) Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the purpose, intent, and requirements of this Chapter; and

(vi) Prepare a written summary of the analysis and findings demanded within this Subsection prior to the City's decision on the applicable development permit. This summary may take the form of a letter to the applicant. Critical area review findings may result in: a) no adverse impacts to critical areas, b) a list of critical areas protection conditions for the applicable development permit, or c) denial of the applicable development permit based upon unavoidable impacts to critical areas functions and values.

(10) Critical Area Report Requirements.

(a) For those projects determined by the SMP Administrator or designee likely to have an impact to the critical areas, the applicant shall submit a critical areas report identifying the precise limits of the critical area and its function and resource value as part of the application. The study report shall be prepared by experts with demonstrated qualifications in the area of concern and shall apply

the most current, accurate, and complete scientific and technical information available as part of its analysis.

(b) At a minimum, the critical area report shall contain the following:

(i) The name and contact information of the applicant, a description of the proposal, and identification of the development permit(s) requested;

(ii) A copy of the site plan for the development proposal showing:

(aa) Identified critical areas, buffers, and the development proposal with dimensions;

(bb) Limits of any areas to be cleared; and

(cc) A proposed stormwater management plan for the development consistent with the current edition of the City's Design Standards;

(iii) The names and professional qualifications of the persons preparing the critical area report and documentation of any fieldwork performed on the site;

(iv) Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

(v) A statement specifying the accuracy of the report, and all assumptions made and relied upon;

(vi) An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

(vii) A description of reasonable efforts made to apply mitigation sequencing pursuant to Subsection 16.55.250(2)(d) to avoid, minimize, or mitigate impacts to critical areas;

(viii) Plans for adequate mitigation, as needed, to offset any impacts, in accordance with Subsections 16.55.350(11) through 16.55.350(13);

(ix) A discussion of the standards applicable to the critical area and proposed activity; and

(x) Financial guarantees to ensure compliance, if applicable.

(c) Additional Information. Additional information is required for critical area reports related to wetlands and habitat conservation areas pursuant to applicable wetlands standards (Section 16.55.360)

and habitat conservation area standards (Section 16.55.400).

(d) Limitations to Study Area. The SMP Administrator may limit the required geographic area of the critical area report as appropriate if:

(i) The applicant, with assistance from the City, cannot obtain permission to access properties adjacent to the project area; or

(ii) The proposed activity will affect only a limited part of the subject site.

(e) Modifications to Required Contents. The applicant may consult with the SMP Administrator prior to or during preparation of the critical area report to obtain concurrence on modifications to the required contents of the critical area report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

(f) Reports Previously Prepared. A critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the SMP Administrator.

(11) Mitigation Requirements.

(a) The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this Chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with the critical area report and SEPA documents.

(b) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

(c) Except as otherwise allowed by this Chapter, mitigation shall not be implemented until: a) the SMP Administrator has approved a critical area report that includes a mitigation plan, and b) the City has approved the applicable development permit.

(12) Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for as specified in Subsection 16.55.250(2)(d).

(13) Mitigation Plan Requirements. When mitigation is required, the applicant shall submit to the SMP Administrator a mitigation plan as part of the critical area report. The mitigation plan shall include:

(a) Environmental Goals and Objectives. The mitigation plan shall include a written narrative identifying environmental goals and objectives of the compensation proposed and including:

(i) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completion of site compensation construction activities; the goals and objectives shall be related to the functions and values of the impacted critical area;

(ii) A review of the most current, accurate, and complete scientific and technical information available supporting the proposed mitigation and a description of the critical area report author's experience to date in restoring or

creating the type of critical area proposed; and

(iii) An analysis of the likelihood of success of the compensation project.

(b) Performance Standards. The mitigation plan shall establish performance standards to meet the environmental goals and objectives required in this Section.

(c) Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

(i) The proposed construction sequence, timing, and duration;

(ii) Grading and excavation details;

(iii) Erosion and sediment control features;

(iv) A vegetation planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(v) Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and/or other drawings appropriate to show construction techniques or anticipated final outcomes.

(d) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed

project. The plan shall provide for the preparation of a compliance report by a qualified professional indicating that the mitigation measures proposed in the mitigation plan have been effected. A protocol shall also be included outlining the schedule for site monitoring in years 1, 3, and 5 after site construction, and how the

monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project.

(e) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standard are not being met.

(f) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with Subsection 16.55.350(18).

~~(g)~~

(14) Innovative Mitigation.

(a) The City may encourage and facilitate innovative mitigation projects. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this Section where one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

(i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

(ii) The group demonstrates the organizational and fiscal capability to act cooperatively;

(iii) The group demonstrates that long-term management of the habitat area will be provided; and

(iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site.

(b) Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

(c) Innovative mitigation projects as described in this Section may, at the discretion of the SMP Administrator, be exempted from the timing requirements set forth in Subsection 16.55.350(11)(c).

(15) Critical Area Markers and Signs. The critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs may be replaced with permanent signs, as determined appropriate by the SMP Administrator. The Administrator may also require that fencing be installed or native vegetation be planted or retained at a site to delineate and protect critical areas and/or their buffers.

(16) Building Setbacks. Unless otherwise provided by means of an approved critical area report or the provisions of this Chapter, buildings and other structures shall be set back a minimum of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:

(a) Landscaping;

(b) Uncovered decks;

(c) Building overhangs if such overhangs do not extend more than two feet into the

setback area; and

(d) Impervious ground surfaces, such as driveways, parking areas, and patios, provided that such improvements are constructed in accordance with the City's Design Standards.

(17) Unauthorized Critical Area Alterations and Enforcement.

(a) Unauthorized Alteration. When a critical area or its buffer has been altered in violation of this Chapter, the City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, replacement, or, where determined appropriate by the SMP Administrator, mitigation measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter and other applicable Pullman City Code provisions governing the applicable development permit.

(b) Restoration/Mitigation Plan Required. All development work shall remain stopped until a restoration/mitigation plan is prepared and approved by the SMP Administrator. Such a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the minimum standards described in Subsection 16.55.350(17)(c) and/or mitigation requirements outlined in Subsections 16.55.350(11) through 16.55.350(13), if mitigation is determined to be appropriate by the SMP Administrator. The Administrator shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

(c) Minimum Standards for Restoration or Mitigation.

(i) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum standards shall be met for the restoration or mitigation of impacts to a critical area, provided that if the violator can demonstrate in a restoration/mitigation plan that greater functional and habitat values can be obtained, these standards may be modified by the SMP Administrator:

(aa) The historic structural and functional values shall be restored, including water quality and habitat functions;

(bb) The historic soil types and configuration shall be replicated;

(cc) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and

(dd) The historic functions and values should be replicated at the location of the alteration.

(ii) For alterations to flood and geological hazards, the following minimum standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

(aa) The hazard shall be reduced to a level equal to, or less than, the pre- development hazard;

(bb) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

(cc) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

(d) Penalties. Any violation or failure to comply with any of the provisions of this Chapter, or any amendment thereto, shall be a civil infraction and shall be subject to a fine in an amount not to exceed $500.00 for each violation. Each day in which a violation continues shall be deemed a separate offense. Any activity carried out contrary to the provisions of this Chapter shall constitute a

public nuisance and may be enjoined as provided

by the statutes of the state of Washington. Daily fines shall not be levied until after a violator has received a written notice of the violation and shall not be levied while a written notice of violation is under appeal through the applicable appeal process.

(18) Financial Guarantees to Ensure Mitigation and Maintenance

(a) Mitigation required pursuant to a development proposal should be completed prior to final project approval. When the SMP Administrator determines it is not feasible for required mitigation to be completed prior to final project approval, the SMP Administrator shall require the applicant to post a financial guarantee in a form and amount deemed acceptable by the SMP Administrator. Acceptable financial guarantees include, but are not limited to, cash, bond, promissory note, or letter of credit.

(b) Once mitigation measures have been completed, the SMP Administrator may require a financial guarantee for maintenance of said mitigation measures.

(c) The financial guarantee shall be in the amount of one hundred twenty-five percent (125%) of the estimated cost of the improvements or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

(d) The financial guarantee shall remain in effect until the SMP Administrator determines, in writing, that the standards bonded for have been met. Financial guarantees for maintenance shall be held by the City for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

~~(e)~~ Depletion, failure, or collection of financial guarantee funds shall not discharge the obligation of an applicant or violator to complete required

~~(f)~~(e) mitigation, maintenance, monitoring, or restoration.

~~(g)~~(f) Public development proposals shall be relieved from having to comply with the requirements of this Section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

~~(h)~~(g) Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or the failure to comply with other provisions of a mitigation plan may be deemed by the SMP Administrator to constitute a default, and the SMP Administrator may demand payment of any financial guarantees or require other action authorized by the Pullman City Code or any other law.

~~(i)~~(h) Any funds recovered pursuant to this Section shall be used to complete the required mitigation.

(19) Critical Area Inspections. Reasonable access to the site shall be provided to the City, state, and federal agency review staff for the purposes of inspections during any proposal review, restoration, emergency action, or monitoring period. Additionally, the City or its agent shall have reasonable access to the site for completing necessary remediation work in the event of noncompliance. Failure to provide access shall be deemed a violation and shall be subject to the penalties set forth in Subsection 16.55.350(17)(d).

Section 37: There is hereby added a new section 16.55.360 to the Pullman City Code that reads as follows:

## 16.55.360 Wetlands.

(1) Delineation. Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be determined by a qualified professional in accordance with the most current approved federal wetland delineation manual and applicable regional supplements. All areas within the City's shoreline jurisdiction

meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this Section, regardless of any formal

identification.

(2) Rating.

(a) Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System for Eastern Washington (Ecology Publication #14- 06-030, or as amended and approved by Ecology). This document contains definitions and methods for determining if the general criteria below are met.

(i) Category I wetlands are: 1) alkali wetlands;

2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; 3) bogs and calcareous fens; 4) mature and old-growth forested wetlands over one-quarter acre with slow-growing trees; 5) forests with stands of aspen; and 6) wetlands that perform many functions very well (scores between 22-27 points). These wetlands are those that 1) present a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function.

(ii) Category II wetlands are: 1) forested wetlands in the floodplains of rivers; 2) mature and old-growth forested wetlands over one-quarter acre with fast-growing trees; 3) vernal pools; and 4) wetlands that perform functions well (scores between 19-21 points). These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection.

(iii) Category III wetlands are wetlands with a moderate level of functions (scores between 16-18 points). Wetlands scoring between 16-18 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(iv) Category IV wetlands have the lowest level of functions (scores fewer than 16 points) and are often heavily disturbed. These are wetlands should be able to be replaced, and in some cases be able to be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions and also need to be protected.

(b) Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

(3) Mapping. The approximate location and extent of known wetlands are shown on the pertinent City critical area map. National Wetland Inventory Maps and the City critical area map regarding wetlands are to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. These maps are a reference and do not provide a final critical area designation. The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional applying delineation methods described in Subsection 16.55.360(1). Wetland boundaries shall be clearly demarcated with non-degradable survey flagging labeled "WETLAND BOUNDARY" or "WETLAND DELINEATION." Flagging shall be attached to existing vegetation or stakes at a

maximum interval of 50 linear feet. Individual flags should be labeled with a wetland identifier and consecutive numbers (e.g., A-1 through A-8).

(4) Critical Area Report- Additional Requirements.

(a) Areas Addressed in Report. The following areas shall be addressed in a critical area report for wetlands:

(i) The project area of the proposed activity;

(ii) All wetlands and recommended buffers within

200 feet of the project area; and

(iii) All shoreline areas, water features, flood plains, and other critical areas, and related buffers within 200 feet of the project area.

(b) Wetland Analysis. In addition to the minimum required contents of critical area reports in Subsection 16.55.350(10), a critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

(i) A written assessment and accompanying maps of the wetlands and buffers within 200 feet of the project area, including the following information at a minimum:

(aa) Wetland delineation and required buffers;

(bb) Existing wetland acreage;

(cc) Wetland category; vegetative, faunal, and hydrologic characteristics; and

(dd) Soil substrate conditions

(ii) A discussion of measures, including avoidance, minimization and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

(iii) Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

(aa) Existing wetland acreage and proposed impact area;

(bb) Vegetative, faunal, and hydrologic conditions;

(cc) Relationship within watershed and to existing waterbodies;

(dd) Soil and substrate conditions, topographic elevations;

(ee) Existing and proposed adjacent site conditions;

(ff) Proposed wetland buffers;

(gg) Property ownership; and

(iv) A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs.

(c) Additional Information. When appropriate, the SMP Administrator may also require the critical area report to include an evaluation by the Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

(5) General Requirements.

(a) Activities in Wetland Areas. A proposed activity may only be permitted in a wetland or wetland buffer if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the wetland and other critical areas.

(b) Wetland Buffers. Unless otherwise provided for in this Chapter, wetland buffers are required.

(i) Standard Buffer Widths. The standard buffer widths presume the

existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate then the buffer width shall be increased or the buffer should be planted to maintain the standard width.

(ii) Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

**Table 16.55.360-1. Standard Wetland Buffers**

| Category of Wetland | Land Use with Low Impact* | Land Use with Moderate Impact* | Land Use with High Impact* |
|---|---|---|---|
| IV | 25 ft. | 40 ft. | 50 ft. |
| III | 75 ft. | 110 ft. | 150 ft. |
| II | 100 ft. | 150 ft. | 200 ft. |
| I | 125 ft. | 190 ft. | 250 ft. |

***Table 16.55.360-2. Types of proposed land use that can result in high, moderate, and low levels of impacts to adjacent wetlands.**

| Level of Impact from Proposed Change in Land Use | Types of Land Use |
|---|---|
| High | • Commercial<br>• Urban<br>• Industrial<br>• Institutional<br>• Retail sales<br>• Residential (more than 1 unit/acre)<br>• Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.)<br>• High-intensity recreation (golf courses, ball fields, etc.)<br>• Hobby farms |
| Moderate | • Residential (1 unit/acre or less)<br>• Moderate-intensity open space (parks with biking, jogging, etc.)<br>• Conversion to moderate-intensity agriculture (orchards, hay fields, etc.)<br>• Paved trails<br>• Building of logging roads<br>• Utility corridor or right-of-way shared by several utilities and including access/maintenance road |
| Low | • Forestry (cutting of trees only)<br>• Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)<br>• Unpaved trails |

| | |
|---|---|
| | • Utility corridor without a maintenance road and little or no vegetation management. |

(c) Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.

(d) Increased Wetland Buffer Width. The SMP Administrator may require increased buffer width in accordance with the critical area report and the most current, accurate, and complete scientific and technical information available on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site- specific characteristics. This determination shall be based on one or more of the following criteria:

(i) A larger buffer is needed to protect other critical areas;

(ii) The buffer or adjacent uplands has an overall slope steeper than fifteen percent (15%) or is susceptible to erosion;

(iii) And standard erosion control measures will not prevent adverse impacts to the wetland; or

(iv) The buffer area has minimal vegetative cover, although implementation of a buffer planting plan may substitute for increasing the buffer width.

In no case shall wetland buffers be increased to a width two times that of the standard required buffer.

(e) Wetland Buffer Width Averaging. The SMP Administrator may allow modification of the standard wetland buffer width in accordance with the critical area report and the most current, accurate, and complete scientific and technical information available on a case-by-case basis by

averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that:

(i) It will not reduce wetland functions or values;

(ii) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(iii) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(iv) The buffer at its narrowest point is never less than either seventy-five percent (75%) of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

(f) Buffers for Mitigation Shall be Consistent. All mitigation sites shall have buffers consistent with the buffer requirements of this Chapter.

(g) Buffer Conditions Shall be Maintained. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers shall be retained in their natural condition.

(h) Functionally Isolated Buffer Areas. Areas that are functionally separated from a wetland and do not provide protection to the wetland from potential adverse impacts due to preexisting roads, facilities, or vertical separation, shall be excluded from buffers otherwise required by this chapter.

(i) Allowed Buffer Uses. In addition to those uses identified in Subsection 16.55.350(8)(c), the

following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

(i) Passive recreation facilities. Passive recreation facilities designed and in accordance with an approved critical area report, including:

(aa) Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five

(5) feet in width for pedestrian use only. Raised boardwalks utilizing non- treated pilings may be acceptable.

(bb) Wildlife-viewing structures.

(ii) Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

(iii) Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant

material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

(iv) Stormwater management facilities. Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer twenty- five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

(aa) No other location is feasible; and

(bb) The location of such facilities will not degrade the functions or values of the wetland; and

(cc) Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

(v) Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

(j) Subdivisions. The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

(i) Land that is located wholly within a wetland or its buffer may not be subdivided.

(ii) Land that is located partially within a wetland or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

(aa) Is located outside of the wetland and its buffer; and

(bb) Meets the minimum lot size requirements of the City zoning code (Title 17).

(iii) Access roads and utilities serving a proposed subdivision or other property may be permitted within the wetland and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

(k) Signs and Fencing of Wetlands.

(i) Temporary Markers. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

(ii) Permanent Signs. As a condition of any development permit, the SMP Administrator may require the applicant to install permanent signs along the boundary of a wetland and/or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the SMP Administrator:

*"Protected Wetland Area Do Not Disturb*

*Contact City of Pullman Regarding Uses and Restrictions"*

(iii) Fencing.

(aa) As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the wetland buffer, when fencing will prevent future impacts to the wetland.

(bb) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.

(cc) Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

(dd) At no time shall treated wood posts (e.g., creosote) be allowed in wetland areas or in adjacent uplands to prevent chemicals from migrating into the wetland.

(6) Compensatory Mitigation.

(a) Projects that propose compensation for wetland acreage and/or functions are subject to State and Federal regulations. Compensatory mitigation for alterations to wetlands shall provide for no net loss of wetland functions and values. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the mitigation plan requirements of 16.55.350(13); Wetland Mitigation

in Washington State – Part 2: Developing Mitigation Plans--Version 1, (Ecology Publication #06-06- 011b, Olympia, WA, March 2006 or as amended); and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010).

(b) Mitigation for Lost Functions and Values. Mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement, and shall provide similar wetland functions as those lost except when:

(i) The lost wetland provides minimal functions as determined by a site-specific function assessment and the proposed mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal watershed assessment protocol; or

(ii) Out-of-kind replacement will best meet formally identified regional goals, such as replacement of historically diminished wetland types.

(c) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution, shall occur in the following order of preference:

(i) Restoring wetlands on upland sites that were formerly wetlands;

(ii) Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of exotic introduced species;

(iii) Enhancing significantly degraded wetlands;

(iv) Preserving high-quality wetlands that are under imminent threat.

(d) Location of Mitigation.

(i) Mitigation actions shall be conducted on the same site as the alteration except when the following apply:

(aa) There are no reasonable on-site opportunities or on-site opportunities do not have a high likelihood of success due to development pressures, adjacent land uses, or on-site buffers or connectivity are inadequate;

(bb) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.

(ii) If the SMP Administrator authorizes off-site mitigation, the location of this mitigation shall be in the same drainage basin and the same Water Resource Inventory Area (WRIA) as the site of the alteration unless:

(aa) Established regional or watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or

(bb) Credits from a state certified wetland mitigation bank are used as mitigation and the use of these credits justifies location of mitigation at another site.

(iii) Off-site locations for mitigation should be within the City limits if feasible opportunities for appropriate mitigation are available.

(e) Mitigation Ratios.

(i) Wetland mitigation ratios shall be consistent with Table 16.55.360-3.

**Table 16.55.360-3. Wetland Mitigation Ratios**

| Category and Type of Wetland | Creation or Re-establishment | Rehabilitation | Enhancement |
|---|---|---|---|
| Category I: Bog, Wetlands with High Conservation Value | Not considered possible | Case by case | Case by case |

| | | | |
|---|---|---|---|
| Category I: Forested | 6:1 | 12:1 | 24:1 |
| Category I: Based on functions | 4:1 | 8:1 | 16:1 |
| Category II | 3:1 | 6:1 | 12:1 |
| Category III | 2:1 | 4:1 | 8:1 |
| Category IV | 1.5:1 | 3:1 | 6:1 |

(ii) To more fully protect functions and values, and as an alternative to the mitigation ratios in Table 16.55.360-3, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

(iii) Impacts to wetland buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

(f) Wetland Mitigation Banks.

(i) Credits from a wetland mitigation bank may be approved for uses as compensation for unavoidable impacts to wetlands when:

(aa) The bank is certified through applicable provisions administered by the Department of Ecology and the Army Corps of Engineers;

(bb) The SMP Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(cc) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(ii) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(iii) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one WRIA for specific wetland functions.

(g) Advance Mitigation. Mitigation for projects with pre-identified impacts to wetlands may be constructed in advance of the impacts if the mitigation is implemented according to federal rules, State policy on advance mitigation, and State water quality regulations.

(h) Monitoring. Mitigation monitoring shall be required for a period necessary to establish that performance standards have been met, but not for a period less than five years. If a scrub-shrub or forested vegetation community is proposed, monitoring may be required for ten years or more. The project mitigation plan shall include monitoring elements that ensure certainty of success for the project's natural resource values and functions. If the mitigation goals are not obtained within the initial five-year period, the applicant remains responsible for restoration of the natural resource values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

(i) Wetland Preservation as Mitigation. Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement, provided that a minimum of 1:1 acreage replacement is provided by re-establishment or creation. Ratios for preservation in combination with other forms of mitigation generally range from 10:1 to 20:1, as determined on a case-by-case basis, depending on

the quality of the wetlands being altered and the quality of the wetlands being preserved.

Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:

(i) The area proposed for preservation is of high quality. The following features may be indicative of high-quality sites:

(aa) Category I or II wetland rating (using the wetland rating system for eastern Washington).

(bb) Rare wetland type (for example, bogs, mature forested wetlands, estuarine wetlands).

(cc) The presence of habitat for priority or locally important wildlife species.

(dd) Priority sites in an adopted watershed plan.

(ii) Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species.

(iii) There is no net loss of habitat functions within the watershed or basin.

(iv) Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost.

(v) Permanent preservation of the wetland and buffer will be provided through a conservation easement or tract held by a land trust.

(vi) The impact area is small (generally less than half an acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland).

All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

Section 38: There is hereby added a new section 16.55.370 to the Pullman City Code that reads as follows:

## 16.55.370 Critical Aquifer Recharge Areas.

(1) Designation. Critical aquifer recharge areas (CARA) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365- 190-030(2). CARA have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water. The following areas have been identified based on local conditions:

(a) Wellhead Protection Areas. Wellhead protection areas shall be defined by the boundaries of the ten

(10) year time of ground water travel, or boundaries established using alternate criteria approved by the Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-13.

(b) Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090. For the City, special protection areas shall include all areas for which perennial surface water (i.e. Paradise Creek, and portions of the South Fork Palouse River and Missouri Flat Creek)) are in direct or near contact with outcroppings of either the Wanapum or Grand Ronde basalts.

(2) Mapping. The approximate location and extent of critical aquifer recharge areas are shown on the pertinent city critical area map. This map is to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes

available. This map is a reference and does not provide a final critical area designation.

(3) Existing Regulations. The following provisions are in place to protect critical aquifer recharge areas and regulate activities that might potentially impact these areas:

(a) City of Pullman Design Standards.

(b) City of Pullman Wellhead Protection Plan.

(c) State and federal regulations applicable to specific uses including but not limited to those provided in Subsections 16.55.370(5) and 16.55.370(6).

(4) General Requirements.

(a) Activities may only be permitted in a critical aquifer recharge area if the applicant can demonstrate that the proposed activity will not adversely affect the recharging of the aquifer and that the proposed activity will not cause contaminants to enter the aquifer.

(b) The proposed activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, state Department of Health, and the Whitman County Health Department, and as provided in the City's wellhead protection plan.

(c) The proposed activity must be designed and constructed in accordance with erosion control and surface/stormwater management requirements in the current edition of the City's Design Standards.

(5) Development Standards for Specific Activities.

(a) Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

(b) Underground Tanks. All new underground storage facilities proposed for use in the storage of

hazardous substances or hazardous wastes shall be designed and constructed so as to:

(i) Prevent releases due to corrosion or structural failure for the operational life of the tank;

(ii) Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

(iii) Use material in the construction or lining of the tank that is compatible with the substance to be stored.

(c) Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

(i) Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

(ii) Have a primary containment area enclosing or underlying the tank or part thereof; and

(iii) Have a secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

(d) Vehicle Repair and Servicing. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

(e) Spreading or Injection of Reclaimed Water. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer

comprehensive plans that have been approved by the Departments of Ecology and

Health.

(i) Surface spreading must meet the ground water recharge criteria given in Chapters 90.46.080 and 90.46.010(10) RCW.

(ii) Direct injection must be in accordance with the standards developed by authority of Chapter 90.46.042 RCW.

(f) State and Federal Regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

**Table 16.55.370-1. Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities**

| Activity | Statute - Regulation – Guidance |
|---|---|
| Above Ground Storage Tanks | Chapter 173-303 -640 WAC |
| Animal Feedlots | Chapter 173-216 WAC, Chapter 173-220 WAC |
| Automobile Washers | Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ- R-95-56) |
| Below Ground Storage Tanks | Chapter 173-360 WAC |
| Chemical Treatment Storage and Disposal Facilities | Chapter 173-303-182 WAC |
| Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.) | Chapter 173-303 WAC |
| Injection Wells | Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC |
| Junk Yards and Salvage Yards | Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (WDOE 94-146) |
| Oil and Gas Drilling | Chapter 332-12-450 WAC, WAC, Chapter 173-218 WAC |
| On-Site Sewage Systems (Large Scale) | Chapter 173-240 WAC |
| On-Site Sewage Systems (< 14,500 gal/day) | Chapter 246-272 WAC, Local Health Ordinances |
| Pesticide Storage and Use | Chapter 15.54 RCW, Chapter 17.21 RCW |
| Sawmills | Chapter 173-303 WAC, 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53) |
| Solid Waste Handling and Recycling Facilities | Chapter 173-304 WAC |
| Surface Mining | Chapter 332-18-015 WAC |
| Waste Water Application to Land Surface | Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application |

| | |
|---|---|
| | Guidelines, Best Management Practices for Irrigated Agriculture |

(6) Uses Prohibited. The following activities and uses are prohibited in critical aquifer recharge areas in shoreline jurisdiction:

(a) Landfills. Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste, and inert and demolition waste landfills;

(b) Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells (Chapter 173-218 WAC).

Section 39: There is hereby added a new section 16.55.380 to the Pullman City Code that reads as follows:

## 16.55.380 Frequently Flooded Areas.

(1) Classification. The flood areas in the City are classified as either one of two types:

(a) Floodway. Floodways are defined as the channel of a stream and adjacent land areas which are required to carry and discharge the flood water or flood flows of any river or stream associated with a regulatory flood.

(b) Flood Fringe. The flood fringe is defined as that land area which is outside a stream's floodway, but is subject to periodic inundation due to flooding, associated with a regulatory flood.

(2) Designation and Mapping. All areas within the City meeting the frequently flooded definition, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Chapter. The approximate location and extent of frequently flooded areas are shown on the pertinent City critical area map. This map is to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. This map is a reference and does not provide a final critical area designation. Frequently flooded areas have been accurately delineated based on hydrologic and hydraulic studies completed as part of the National Flood Insurance Program by the Federal Emergency Management Agency in May 1981, as amended. The methodology and detail of these studies is accepted as the most current, accurate, and complete scientific and technical information available.

(3) Existing Regulations. Chapter 17.100 of the Pullman City Code regulates proposed activities adjacent to or within frequently flooded areas. If allowed, any structures

permitted in the designated flood areas are subject to strict flood-proofing regulations.

Section 40: There is hereby added a new section 16.55.390 to the Pullman City Code that reads as follows:

## 16.55.390 Geologically Hazardous Areas.

(1) General Designation. Geologically hazardous areas in shoreline jurisdiction include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

(a) Erosion hazard;

(b) Landslide hazard;

(c) Seismic hazard;

(d) Mine hazard;

(e) Volcanic hazard; and

(f) Other geological events including mass wasting, debris flows, rock falls, and differential settlement.

(2) Designation of Specific Hazard Areas.

(a) Erosion Hazard Areas. Erosion hazard areas are those areas identified by the U.S. Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Rill erosion tends to occur on slopes, particularly steep slopes with easily- erodable soils or poor vegetation. Erosion hazard areas also include those areas with a slope greater than fifteen percent (15%).

(b) Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

(i) Areas of historic failures, such as:

(aa) Those areas delineated by the USDA-NRCS as having a "severe" limitation for building site development for factors other than slope for one or more types of building development;

(bb) Those areas mapped by the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

(cc) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

(ii) Areas with all three of the following characteristics:

(aa) Slopes steeper than fifteen percent (15%);

(bb) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

(cc) Springs or ground water seepage;

(iii) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

(iv) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;

(v) Slopes having gradients steeper than eighty percent (80%) subject to rock fall during seismic shaking;

(vi) Areas potentially unstable because of rapid stream incision, streambank erosion, and undercutting by wave action;

(vii) Areas that show evidence of, or are at risk from snow avalanches;

(viii) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and

(ix) Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten or more feet except areas composed of consolidated rock.

(c) Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

(i) The magnitude of an earthquake;

(ii) The distance from the source of an earthquake;

(iii) The type or thickness of geologic materials at the surface; and

(iv) The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft- saturated soils of low density, typically in association with a shallow ground water table.

(d) Mine Hazard Areas. Mine hazard areas are those areas underlain by, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Steep and unstable slopes may be created by open mines (e.g. open basalt rock pits, rock quarries, sand and gravel pits). Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

(e) Volcanic Hazard Areas. Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.

(f) Other Hazard Areas. Geologically hazardous areas shall also include areas determined by the SMP Administrator to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

(3) Classification. The level of risk for each geologic hazard type is described in this subsection. Documentation of specific areas in which a known or suspected risk exists for each of the following hazard areas is provided in the pertinent City critical area map. The provisions of this Section apply only to those areas for which a known or suspected risk exists in shoreline jurisdiction.

**Table 16.55.390-1. Classification of Geologic Hazard Risk**

| Classification | Documentation and Data Sources |
|---|---|
| Known or Suspected Risk | Documentation or projection of the hazard by a qualified professional exists. |
| Low or No Risk | Documentation exists by a qualified professional regarding low hazard risk or lack of hazard. |
| Risk Unknown | Documentation, data, or projection of the hazard risk by a qualified professional are not<br>available or sufficient to determine the presence or absence of a geologic hazard. |

(a) Erosion Hazard Areas – Known or Suspected Risk. The Thatuna Soil Series within the City is identified as having a potentially severe erosion hazard. The Thatuna Series within the City consists of: the Thatuna Silt Loams on slopes of seven to twenty- five percent (7-25%) and twenty-five to forty percent (25-40%) and the Thatuna-Tilma Silt Loams on slopes of seven to twenty-five percent (7-25%).

**Table 16.55.390-2. Erosion Hazard by Soil Type**

| Soil Series Name | Slope (%) | Erosion Hazard |
|---|---|---|
| Thatuna Silt Loam | 7 –25 | Moderate to Severe |
| Thatuna Silt Loam | 25 – 40 | High to Severe |
| Thatuna-Tilma Silt Loams | 7 – 25 | Moderate to Severe |

(b) Landslide Hazard Areas – Known or Suspected Risk. Areas of severe limitations to building development as identified by the USDA-NRCS for reasons other than slope for one or more types of building development include the soil series in the following table.

**Table 16.55.390-3. Landslide Hazard by Soil Type**

| Soil Name | Risk Level: Reason | | |
|---|---|---|---|
| | Dwellings w/o Basements: | Dwellings w/ Basements | Small Commercial Buildings |
| Caldwell | Severe: floods | Severe: floods, wetness | Severe: floods |
| Garfield | Severe: shrink-swell, low strength | Severe: shrink- swell, low strength | Severe: shrink- swell, low strength |
| Gwin-Tucannon | Severe: slope | Severe: depth to rock, slope | Severe: slope |
| Konert | Severe: floods, wetness, shrink-swell | Severe: floods, wetness, shrink-swell | Severe: floods, wetness, shrink-swell |
| Latah | Severe: floods, wetness, shrink-swell | Severe: floods, wetness, shrink-swell | Severe: floods, wetness, shrink-swell |
| Naff | Severe: slope, shrink-swell | Severe: slope, shrink-swell | Severe: slope, shrink-swell |
| Thatuna-Tilma | Severe: shrink-swell, slope, wetness | Severe: wetness, shrink-swell, slope | Severe: shrink- swell, wetness, slope |
| Tucannon | Severe: slope | Severe: depth to rock, slope | Severe: slope |

(c) Seismic Hazard Areas – Low or No Risk. There are no known specific faults that are likely to create a significant seismic hazard within the City.

(d) Mine Hazard Areas – Known or Suspected Risk. No subsurface mines exist in the City. Open mines such as basalt rock pits and sand/gravel pits that exist within the City are mine hazard areas.

(e) Volcanic Hazard Areas – Low or No Risk. Pullman is not located within a volcanic hazard zone. If a volcanic eruption were to occur in the western part of Washington, the only anticipated impact in Pullman would be ash deposition.

(f) Other Hazard Areas. Other geologically hazardous areas may be designated by the City if documentation thereof is available.

(4) Mapping.

(a) The approximate location and extent of potential geologically hazardous areas are shown in the pertinent City critical area map. The hazard areas outlined on this map are based on the following data:

(i) Department of Natural Resources slope stability maps (slope);

(ii) USGS 10-meter Digital Elevation Model (slope);

(iii) USDA-NRCS Soil Survey of Whitman County, Washington: WA075/Sheet 99/109 (soil type);

(iv) International Building Code (IBC) Ch. 16, Sec. 1613 (earthquake loads);

(v) Additional data as determined necessary by the City.

(b) The City critical area map regarding geologically hazardous areas is to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. This map provides a general reference and does not provide a final critical area designation.

(5) Existing Regulations Pertaining to Geologically Hazardous Areas. The following regulations and procedures are in place for the City to minimize the undesirable impacts that could be associated with geologically hazardous areas:

(a) IBC Appendix J: Grading.

(b) IBC Section 1803: Excavation, Grading and Fill.

(c) IBC Section 1612: Flood Loads.

(d) City of Pullman Design Standards.

(e) Landslide Hazard Areas.

(i) IBC Chapter 18: Soils and Foundations.

(ii) IBC Appendix J: Grading.

(iii) City of Pullman Design Standards.

(iv) City of Pullman Policy Regarding Footings and Soil Types.

(v) City of Pullman Design Guidelines for Typical Residential Footings on Poor Soils.

(f) Seismic Hazard Areas.

(i) IBC Chapter 16, Section 1613: Earthquake Loads.

(ii) IBC Chapter 18: Soils and Foundations

(g) Mine Hazard Areas.

(i) Chapter 17.125 Pullman City Code: Conditional Use Permit.

(ii) Chapter 78.44 RCW – Surface Mining.

(6) New development and lots. In any geologically hazardous area, new development and creation of new lots that would cause foreseeable risk from geological conditions after application of the provisions referenced in Subsection 16.55.390(5) during the life of the development is prohibited.

Section 41: There is hereby added a new section 16.55.400 to the Pullman City Code that reads as follows:

## 16.55.400 Fish and Wildlife Habitat Conservation Areas.

(1) Designation.

(a) All areas within the shoreline jurisdiction of Pullman meeting one or more of the following criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section and shall be managed consistent with the most current, accurate, and complete scientific and technical information available, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species. Fish and wildlife habitat conservation areas shall include the following:

(i) Areas with which State or Federally Designated Endangered, Threatened, and Sensitive Species Have a Primary Association.

(aa) Federally designated endangered and threatened species are those fish, wildlife and plant species identified by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted as necessary for current listing status.

(bb) State designated, endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the state Department of Fish and Wildlife, and those native plant species identified by the Department of Natural Resources, that are in danger of extinction, threatened to become endangered, vulnerable, or

declining and are likely to become endangered or threatened in a significant portion of their range within

the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species), and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted as necessary for current listing status.

(cc) A combined list of federally and state identified species having the potential to exist within the City is maintained by the Pullman Department of Community Development.

(ii) State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife. A state list of priority habitats is maintained by the Pullman Department of Community Development.

(iii) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City, including those that possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators, such as high quality native plant communities, and those with historical or cultural importance.

(iv) Naturally Occurring Ponds Under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

(v) Waters of the State. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.

(vi) Lakes, Ponds, Streams, and Rivers Planted with Game Fish by a Governmental or Tribal Entity.

(vii) State Natural Area Preserves and Natural Resource Conservation Areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the state Department of Natural Resources.

(viii) Land Essential for Preserving Connections between Habitat Blocks and Open Spaces.

(ix) All areas within the City meeting one or more of the above criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this Section. The SMP Administrator shall be responsible for making final habitat conservation area designations in shoreline jurisdiction within the City.

(b) Mapping. The approximate location and extent of habitat conservation areas are shown on the following maps, which are hereby adopted to provide geographic information about known or suspected habitat conservation areas:

(i) Department of Fish and Wildlife Priority Habitat and Species Maps;

(ii) Department of Natural Resources, Official Water Type Reference Maps, as amended;

(iii) Resident salmonid distribution maps contained in studies conducted by the local watershed planning unit or in the Habitat Limiting Factors Reports published by the Washington Conservation Commission;

(iv) Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area Maps; and

(v) City habitat maps.

These maps are to be used as a guide for the City, project applicants, and property owners, and will be periodically updated as new information becomes available. They are a reference and do not provide a final critical area designation.

(2) Critical Area Report - Additional Requirements. In addition to the general critical area report requirements, the following elements must be met:

(a) Preparation by a Qualified Professional. A critical areas report for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat;

(b) Areas Addressed in Report. The following areas shall be addressed in a critical area report for habitat conservation areas:

(i) The project area of the proposed activity;

(ii) All habitat conservation areas and recommended buffers within 200 feet of the project area; and

(iii) Shoreline areas, floodplains, and other critical areas, and related buffers within 200 feet of the project area.

(c) Habitat Assessment. An investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. An assessment of habitats shall include, at a minimum, the following information:

(i) A detailed description of vegetation on and adjacent to the project area;

(ii) Identification of any species of local importance, priority species, or endangered, threatened, sensitive or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

(iii) A discussion of any federal, state, or local special 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 the project area;

(iv) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with Subsection 16.55.350(11) (Mitigation Requirements); and

(v) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

(d) Additional Information. When appropriate due to the type of habitat or species present or the project area conditions, the SMP Administrator may also require the critical area report to include:

(i) An evaluation by the Washington Department of Fish and Wildlife or qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and

(ii) Detailed surface and subsurface hydrologic features both on and adjacent to the site.

(3) General Requirements Pertaining to Habitat Conservation Areas.

(a) Alterations Shall Not Degrade the Functions and Values of Habitat. A habitat conservation area may be altered only if the proposed activity, including associated mitigation measures, does not degrade the quantitative and qualitative functions and values of the habitat and other critical areas.

(b) Non-indigenous Species Shall Not Be Introduced. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a local, state, or federal permit or approval.

(c) Mitigation Shall Result in Contiguous Corridors. Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of the critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

(d) Approvals of Activities May be Conditioned. The SMP Administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts.

Conditions may include, but are not limited to, the following:

(i) Establishment of buffer zones;

(ii) Preservation of critically important vegetation;

(iii) Limitation of access to the habitat area, including fencing to deter unauthorized access;

(iv) Seasonal restriction of construction activities;

(v) Establishment of a duration and timetable for periodic review of mitigation activities; and

(vi) Requirement of a financial guarantee, when necessary, to ensure completion and success of proposed mitigation.

(e) Mitigation Shall Achieve Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

(f) Approvals shall be supported by the most current, accurate, and complete scientific and technical information available. Any approval of alterations or impacts to a habitat conservation area shall be supported by the most current, accurate, and complete scientific and technical information available.

(g) Buffers.

(i) Establishment of Buffers. The SMP Administrator shall require the establishment of buffer areas for activities in, or adjacent to, habitat conservation areas in shoreline

jurisdiction, when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect

the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby, and shall be consistent with the management recommendations issued by the state Department of Fish and Wildlife.

(ii) Increased habitat buffers. The SMP Administrator may require increased buffer widths in accordance with recommendations of a qualified professional biologist and the most current, accurate, and complete scientific and technical information available when it is determined that a larger buffer is necessary to protect habitat area functions and values due to site specific characteristics.

(iii) Habitat buffer averaging. The SMP Administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the most current, accurate, and complete scientific and technical information available, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

(aa) It will not reduce stream or habitat functions;

(bb) It will not adversely affect salmonid habitat;

(cc) It will provide additional natural resource protection, such as buffer enhancement;

(dd) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(ee) The buffer area width is not reduced by more than twenty-five percent (25%) in any location.

(iv) Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

(h) Signs and Fencing of Habitat Conservation Areas.

(i) Temporary Markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to a development permit shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the SMP Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction, and shall not be removed until permanent signs, if required, are in place.

(ii) Permanent Signs. As a condition of any development permit issued pursuant to this Chapter, the SMP Administrator may require the applicant to install permanent signs along the boundary of a habitat conservation area or buffer. If required, permanent signs shall be made of a metal face and attached to a metal post, or another material of equal durability. Signs must be posted at an interval of one per lot or every 50 linear feet, whichever yields the greater amount of signs, and must be maintained by the property owner in perpetuity. The sign shall be worded as

follows or with alternative language approved by the City:

*"Habitat Conservation Area Do Not Disturb Contact City of Pullman Regarding Uses and Restrictions"*

(iii) Fencing.

(aa) As a condition of any development permit, the SMP Administrator may require the applicant to install a permanent fence at the edge of the habitat conservation area or buffer when fencing will prevent future impacts to the habitat conservation area.

(bb) The applicant shall be required to install a permanent fence around the habitat conservation area or buffer when domestic grazing animals are present or may be introduced on site.

(cc) Fencing installed as part of a proposed activity or as required in this Paragraph shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

(i) Subdivisions. The subdivision and short subdivision of land in habitat conservation areas and associated buffers in shoreline jurisdiction is subject to the following:

(i) Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.

(ii) Land that is located partially within a habitat conservation area or its buffer may be divided provided that an accessible and contiguous portion of each new lot:

(aa) Is located outside of the habitat conservation area and its buffer; and

(bb) Meets the minimum lot size requirements of City's zoning code (Title 17).

(iii) Access roads and utilities serving a proposed subdivision or other property may be permitted within the habitat conservation area and associated buffers only if the SMP Administrator determines that no other feasible alternative exists and these facilities are otherwise established consistent with the provisions of this Chapter.

(4) Development Standards for Specific Species or Habitats.

(a) Endangered, Threatened, and Sensitive Species.

(i) No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association.

(ii) Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and submitted to the SMP Administrator. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and the appropriate federal agency.

(iii) Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are

within 800 feet, or within one-quarter mile (1,320 feet) and in a shoreline foraging area. The SMP Administrator shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the U.S. Fish and Wildlife Service.

(b) Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall, at a minimum, conform to the wetland standards set forth in Section 16.55.360 (Wetlands), in addition to meeting the habitat conservation area standards in this Section.

(c) Riparian Habitat Areas.

(i) Activities Shall Not Degrade the Functions and Values of Riparian Habitat. Unless otherwise allowed in this Chapter, all structures and activities shall be located outside of the riparian habitat area. A proposed activity may only be permitted in a riparian habitat area if the applicant can show that the activity, including associated mitigation measures, will not degrade the functions and values of the riparian habitat area and other critical areas.

(ii) Establishment of riparian habitat areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps and springs.

(iii) Classification. Streams are classified using the Permanent Water Typing System described in WAC 222-16-030, and as follows:

(aa) Type S: Type S waters are shorelines of the state.

(bb) Type F: Type F waters are perennial or seasonal, fish bearing waters.

(cc) Type Np: Type Np waters are non-fish bearing perennial waters.

(dd) Type Ns: Type Ns waters are non-fish bearing seasonal waters.

(iv) Standard Riparian Habitat Area Widths.

(aa) Riparian habitat area buffer widths for waters in shoreline jurisdiction in each environment designation are shown in Table 16.55.400-1. A riparian habitat area shall have the required width, unless a greater width is required pursuant to Subsection 16.55.400(4)(c)(v), or a lesser width is allowed pursuant to Subsection 16.55.400(4)(c)(vi).

(bb) Widths shall be measured outward, on the horizontal plane, from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified.

(cc) Where an action is proposed in an environment designation that is separated from the shoreline by a different environment designation, the only riparian habitat area that applies in the landward designation is that riparian habitat area which is specified for that designation. The applicable riparian habitat area width is always measured from the ordinary high water mark.

**Table 16.55.400-1 Riparian Habitat Area Widths**

| Environment Designation | Shoreline Waters[1] (Type S) | Other Waters[2] |
|---|---|---|
| All Designations | • For water-dependent developments, no minimum riparian habitat area width. Apply mitigation sequencing to avoid and minimize adverse impacts during development siting.<br>• For all developments, riparian habitat area widths are the lesser of the distance indicated below, or (if present) the waterward edge of an improved<br>public road or railroad intersecting the riparian habitat area | |
| **Environment Designation** | **Shoreline Waters[1] (Type S)** | **Other Waters[2]** |
| Shoreline Residential | 75 feet | Type F: 75 feet<br>Type Np: 50 feet<br>Type Ns: 50 feet |
| Shoreline Residential – Urban Growth Area | 100 feet | Type F: 100<br>feet Type Np: |

| | | |
|---|---|---|
| | | 50 feet<br><br>Type Ns: 50 feet |
| Shoreline Parks | 50 feet | Type F: 50<br>feet Type Np:<br>50 feet<br><br>Type Ns: 50 feet |
| High Intensity | From the retaining wall east of NE Kamiaken Street on the south side of the Palouse River: no riparian habitat area<br><br>Everywhere else: 30 feet | All: 30 feet |

[1] Shoreline (Type S) riparian habitat area widths are based on existing conditions in each environment designation

[2] Non-shoreline waters are subject to the buffers and other critical area protections herein only when passing through shoreline jurisdiction

(v) Increased Riparian Habitat Area Width. The recommended riparian habitat area width shall be increased, as follows:

(aa) When the SMP Administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or

(bb) When the SMP Administrator determines that the width is insufficient to protect human life and development from frequently flooded areas, geologically hazardous areas, or channel migration zones.

(vi) Riparian habitat area width averaging. The SMP Administrator may allow the width to be reduced in accordance with a critical area report only if:

(aa) The width reduction will not reduce stream habitat functions, including those of non-fish habitat;

(bb) The width reduction will not degrade the habitat;

(cc) The proposal will provide additional habitat protection;

(dd) The total riparian habitat area of each stream on the development proposal site is not decreased;

(ee) The width is not reduced by more than twenty-five percent (25%) in any one location;

(ff) The width reduction will not be located within another critical area or associated buffer; and

(gg) The reduced width is supported by the most current, accurate, and complete scientific and technical information available.

(vii) Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same sub-drainage basin as the habitat impacted.

(viii) Alternative Mitigation for Riparian Habitat Areas. The requirements set forth in this Section may be modified at the SMP Administrator's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected sub-drainage basin as a result of alternative mitigation measures.

(ix) Uses and modifications allowed in riparian habitat areas. The following

uses are allowed in riparian habitat areas provided that mitigation sequencing (Subsection 16.55.230(2)(d)) is demonstrated, and any adverse impacts to ecological functions are mitigated.

(aa) Water-dependent uses. Consistent with the use allowances for each environment designation, water-dependent uses,

modifications and activities may be located in riparian habitat areas at the water's edge.

(bb) Accessories to water-dependent uses. Uses, developments and activities accessory to water-dependent uses should be located outside any applicable standard or reduced riparian habitat area unless at least one of the following is met:

(aaa) Proximity to the water-dependent project elements is critical to the successful implementation of the facility's purpose and the elements are supportive of the water-dependent use and have no other utility (e.g., a road to a boat launch facility, facilities that support aquaculture); or

(bbb) The proposed accessory would be located in a park or on other public lands where high-intensity recreational development is already legally established, and the accessory would not conflict with or limit opportunities for other water-oriented uses; or

(ccc) The accessory use, development or activity can be located upland of the water-dependent use; or

(ddd) The applicant's lot/site has topographical constraints where no other location of the development is feasible (e.g., the water- dependent use or activity is located on a parcel entirely or substantially encumbered by the required buffer).

In these circumstances, uses and modifications accessory to water- dependent uses must be designed and located to minimize intrusion into the buffer. All other accessory uses, developments and activities proposed to be located in a shoreline buffer must obtain a Shoreline Variance unless otherwise allowed by other regulations in this section or in this SMP.

(cc) Water-oriented public access and recreation facilities. New development and redevelopment of water-oriented public access and recreation structures are allowed in riparian habitat areas provided the applicant can demonstrate that the design applies mitigation sequencing and appropriate mitigation is provided to ensure no net loss of ecological functions. Applicants shall submit a management plan that specifically addresses compliance with Sections 16.55.250 (Environmental Protection), 16.55.260 (Shoreline Vegetation Conservation), 16.55.270 (Water Quality, Stormwater, and Nonpoint Pollution), and Part VII (Shoreline Critical Areas Policies and Regulations). The City may review and condition the project to fully implement the policies of the Shoreline Management Act and this Master Program.

(dd) Temporary agricultural equipment and facilities. New agricultural equipment and facilities, excluding buildings, may be placed in a buffer if the following conditions are satisfied:

(aaa) Placement of the equipment and facilities must support an existing agricultural use.

(bbb) The equipment and facilities may only be in the buffer on a temporary or seasonal basis, a maximum of eight (8) months in a running 12-month period.

(ccc) Placement outside of a buffer is not feasible because it would be located on a property owned by another landowner or it would interfere with another agricultural or authorized use.

(ddd) The location of the proposed equipment and facilities is on an already altered site, and would not result in harm to or removal of native vegetation.

(eee) Best management practices are utilized to prevent adverse impacts to water quality or other ecological functions.

(ee) Shoreline residential access. A private access pathway constructed of pervious materials may be installed, a maximum of four (4) feet wide, through the riparian habitat area to the OHWM. Impervious materials may be used as needed to construct a safe, tiered pathway down a slope. Raised boardwalks may also be constructed through wetland areas to reach the shoreline waterbody consistent with regulations in this article. A railing may be installed on one edge of the pathway, a maximum of 36 inches tall and of open construction. Pathways to the shoreline should take the most direct route feasible consistent with appropriate safety standards.

(d) Standards for Specific Activities in Riparian Habitat Areas. In addition to the general review procedures set forth in Subsection 16.55.350(9) and other applicable provisions of this SMP Part VI, General Policies and Regulations; Part VIII, Shoreline Use Policies and Regulations; and Part IX, Shoreline Modification Policies and Regulations), the standards below apply to specific activities proposed to be located within a riparian habitat area in shoreline jurisdiction to ensure maintenance or enhancement of the functions and values of the affected habitat area.

(i) Clearing and Grading. Clearing and grading operations shall comply with the following standards:

(aa) Grading shall be conducted only when soil conditions are dry and the potential for erosion is low;

(bb) Tilling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration;

(cc) The soil duff layer shall remain undisturbed to the maximum extent possible, and where feasible, any soil disturbed shall be redistributed to the areas of the project area;

(dd) The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces; and

(ee) Erosion and sediment control that meets or exceeds the standards set forth in the adopted stormwater management regulations shall be provided.

(ii) Stormwater Conveyance Facilities. Stormwater conveyance structures shall comply with the following standards:

(aa) The applicant shall demonstrate that no feasible alternatives with less impact exist;

(bb) The structures shall incorporate fish habitat features; and

(cc) Vegetation shall be maintained and, if necessary, added adjacent to

all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

(iii) On-Site Sewage Systems and Wells. On-site sewage systems and wells shall comply with the following standards:

(aa) New individual wells and on-site sewage systems may be allowed only if accessory to an approved residential structure for which it is not feasible to connect to a public water or sanitary sewer system; and

(bb) Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by one of the following methods that results in the least impact to the environment:

(aaa) Connection to an available public sanitary sewer system; or

(bbb) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with the Whitman County Health Department; or

(ccc) Repair of the existing on-site septic system.

Section 42: Under Part VIII. SHORELINE USE POLICIES AND REGULATIONS, there is hereby added a new section 16.55.410 to the Pullman City Code that reads as follows:

## 16.55.410 Agriculture.

(1) Policies

(a) Encourage erosion control measures in accordance with the United States Department of Agriculture Natural Resources Conservation Service agency guidelines.

(b) Control irrigation runoff to minimize discharge of chemicals, fertilizer, sediment, and organic materials in aquatic areas in accordance with federal and state water quality standards.

(c) Allow diversion of water for agricultural purposes consistent with water rights laws and rules.

(d) Encourage maintenance of vegetative zones between tilled areas and aquatic areas to reduce stormwater runoff, reduce sedimentation, and promote fish and wildlife habitat.

(2) Regulations

(a) Section 16.55.100 (Definitions), WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities.

(b) The provisions of this SMP do not limit or require modification of agricultural activities on agricultural lands as of the date of adoption of the SMP. In determining whether lands meet the definition of agricultural activities, the SMP Administrator shall consider laws and rules included in Subsection 16.55.410(1) and information regarding typical agricultural practices for the

subject agricultural use, current use taxation records, conservation easements, and other relevant information. Examples of agricultural practices that could vary by the type of agriculture include but are not limited to: rotations of fields for grazing, cultivation, production, and harvests; animal breeding, feeding, or forage activities; type and frequency of maintenance, repair and replacement of agricultural facilities; and other typical practices.

(c) SMP provisions shall apply in the following cases:

(i) New agricultural activities on land not meeting the definition of agricultural land;

(ii) Expansion of agricultural activities on non- agricultural lands, or conversion of non- agricultural lands to agricultural activities;

(iii) Conversion of agricultural lands to other uses;

(iv) Other development on agricultural land that does not meet the definition of agricultural activities; and

(v) Agricultural development and uses not specifically exempted by the SMA.

(d) Feed lots and stockyards are prohibited in shoreline jurisdiction.

(e) In new cultivated areas, vegetative buffers consistent with Subsection 16.55.370(5), shall be maintained between the OHWM and cultivated ground for purposes of erosion control and riparian vegetation protection, and shall apply to uses and activities subject to the SMP in Subsection 16.55.410(2)(c).

(f) Diversion of water for agricultural purposes shall be consistent with federal and state water rights laws and rules.

(g) No equipment or material shall be abandoned or disposed of in shoreline jurisdiction.

(h) Development in support of agricultural uses shall be consistent with the environment designation intent and management policies, located and designed to assure no net loss of ecological functions, and shall not have a significant adverse impact on other shoreline resources and values.

Section 43: There is hereby added a new section 16.55.420 to the Pullman City Code that reads as follows:

## 16.55.420 Aquaculture.

(1) Policies.

(a) Encourage aquaculture that supports the recovery of endangered or threatened fish species.

(b) Restrict aquaculture in areas where it would result in a net loss of ecological functions or significantly conflict with water-dependent uses.

(c) Consider visual access and aesthetic quality of the shoreline in siting aquaculture facilities.

(2) Regulations.

(a) Aquacultural facilities must be designed and located to avoid:

(i) The spreading of disease, especially to native aquatic life;

(ii) Introducing new non-native species which cause significant ecological impacts;

(iii) Significantly conflicting with water- dependent uses;

(iv) A net loss of ecological functions; or

(v) Significantly impacting the aesthetic qualities of and visual access to the shoreline.

(b) Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, and wind protection. The technology associated with some forms of present- day aquaculture is still in its formative stages and experimental. Therefore, some latitude in the development of this use shall be given, while the potential impacts on existing uses and natural systems are recognized.

(c) All facilities shall comply with the Environmental Protection regulations in Section 16.55.250.

Section 44: There is hereby added a new section 16.55.430 to the Pullman City Code that reads as follows:

## 16.55.430 Commercial Development.

(1) Policies.

(a) Give preference to water-dependent commercial uses over nonwater-dependent commercial uses in shoreline jurisdiction. Water-related and water- enjoyment uses should be prioritized over nonwater- oriented commercial uses.

(b) Encourage water-oriented commercial uses to locate near the water so as to provide opportunities for substantial numbers of people to enjoy shoreline amenities. Those developments that are nonwater- oriented or over-water uses should be encouraged to locate inland from the shoreline jurisdiction.

(c) Encourage new commercial development to locate in areas where commercial development uses already exist, and ensure that it does not significantly reduce scenic views or result in net loss of shoreline ecological function.

(2) Regulations.

(a) Water-dependent, water-related, and water- enjoyment uses are permitted where allowed by zoning and this SMP.

(b) Preference shall be given to water-dependent commercial uses over nonwater-dependent commercial uses. Water-related uses and water-enjoyment uses shall be given priority over nonwater-oriented uses.

(c) Commercial use that is not water-dependent shall not be allowed over water except where it is located within an existing building or where it is accessory to a water-dependent use.

(d) Nonwater-oriented commercial development shall be prohibited unless it meets one of the following criteria and is otherwise allowed consistent with the Use and Modification Table (Table 16.55.320- 1):

(i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to provision of public access or ecological restoration;

(ii) The use is an existing or redeveloped structure in an area that has traditionally been used for nonwater-oriented uses. For example, retail uses in existing or redeveloped structures within the shoreline jurisdiction in the Downtown shall be allowed as a permitted use; or

(iii) Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to provision of public access or ecological restoration.

(e) In areas of the shoreline designated for commercial uses, nonwater-oriented commercial uses may be allowed on sites physically separated from the shoreline by another property or public right-of- way.

(f) New commercial developments shall provide public access to the shoreline.

(g) Commercial development shall comply with the Environmental Protection regulations of Section 16.55.250 and shall be located, designed, and constructed in a way that ensures no net loss of shoreline ecological functions and without significant adverse impacts to other preferred land uses and public access opportunities as provided for in RCW 90.58.020.

Section 45: There is hereby added a new section 16.55.440 to the Pullman City Code that reads as follows:

## 16.55.440 In-Stream Structural Uses.

(1) Policies.

(a) Ensure the location, design, construction and maintenance of in-stream

structures give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

(b) Encourage non-structural and non-regulatory approaches as an alternative to in-stream structures. Non-regulatory and non-structural approaches may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

(2) Regulations.

(a) In-stream structures may be allowed only as part of an approved watershed basin restoration project approved by the City and upon acquisition of any required state or federal permits.

(b) In-stream structures must provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, priority habitats and species, other wildlife and water resources, shoreline critical

areas, hydrogeological processes, and natural scenic vistas.

(c) New in-stream structures shall not interfere with existing water-dependent uses, including recreation.

(d) In-stream structures shall not be a safety hazard.

(e) In-stream structures shall be designed by a qualified professional.

(f) Natural in-stream features, such as snags, uprooted trees, or stumps, shall be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages or pose a hazard to human safety.

(g) In-stream structures shall comply with the Environmental Protection regulations in Section

16.55.250 and shall ensure no net loss of ecological function. Consistent with requirements for mitigation sequencing (Subsection 16.55.250(2)(d)), all structures must be the minimum size necessary and be designed to avoid and then minimize potential adverse impacts. All unavoidable adverse impacts must be mitigated in accordance with a mitigation plan that meets the requirements of Subsection 16.55.250(2)(f).

(h) The applicant must obtain all other local, state, and federal permits required for in-stream structures in addition to the requirements of this SMP.

Section 46: There is hereby added a new section 16.55.450 to the Pullman City Code that reads as follows:

## 16.55.450 Industrial Development.

(1) Policies.

(a) Recognize the importance of industrial uses to the City and attract water-oriented uses for location in appropriate areas along the shoreline.

(b) Allow for existing and new industrial uses that serve the local industries, provided they are developed and operated according to the State's Shoreline Master Program Guidelines and other State and City requirements.

(c) Ensure that existing and new development of industrial facilities is consistent with all Master Program Guidelines and achieves no net loss of shoreline ecological function.

(2) Regulations.

(a) Industrial facilities that are water-dependent or water-related are permitted where allowed by zoning and this SMP. The applicant shall demonstrate that proposed uses are water-dependent and/or water- related.

(b) Industrial development shall be in accordance with the following regulations:

(i) Industrial development shall comply with the Environmental Protection

regulations of Section 16.55.250 and shall be located, designed, constructed, and operated in a manner that minimizes impacts to the shoreline, provides for no net loss of shoreline ecological function, and avoids unnecessary interference with shoreline use by adjacent property owners.

(ii) In the review of shoreline developments, the City shall give preference to water-dependent uses and then water-oriented industrial uses.

(iii) Regional and statewide needs for water- dependent and water-related industrial facilities shall be carefully considered. Lands designated for industrial development shall not include shoreline areas with severe environmental limitations, such as critical areas.

(iv) Unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, industrial development shall consider incorporating public access as mitigation.

(v) Where industrial land is proposed for use on land in public ownership, public access shall be required unless it meets an exception in accordance with Subsection 16.55.300(2)(f).

(vi) Industrial development and redevelopment shall be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

(c) New nonwater-oriented industrial development shall be prohibited on shorelines except when:

(i) The use is a part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

(ii) Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Act's objectives, such as providing public access and ecological restoration.

(iii) The site is physically separated from the shoreline by another property or public right of way.

Section 47: There is hereby added a new section 16.55.460 to the Pullman City Code that reads as follows:

## 16.55.460 Recreational Development.

(1) Policies.

(a) Ensure consistency in shoreline policies, regulations, and long-term parks planning goals between local, state and federal parks departments.

(b) Provide shoreline recreational development that is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state.

(c) Recreation facilities should be located, designed, and operated in a manner consistent with the purpose of the environment designation in which it is located and so as to assure that no net loss of shoreline ecological functions or ecosystem-wide processes results.

(d) Where appropriate, provide shoreline recreation amenities at a capacity that is sufficient to the number of users and the expected future growth in users.

(2) Regulations.

(a) Recreational development shall demonstrate achievement of no net loss of ecological functions and comply with the Environmental Protection regulations of Section 16.55.250.

(b) Recreational uses and development must be compatible with existing or proposed uses in the area and must be consistent with City development standards.

(c) The location, design, and operation of recreational facilities shall be consistent with the purpose of the environment designation.

(d) Recreational uses and facilities located within shoreline jurisdiction shall include features that relate to access, enjoyment and use of the water and shorelines of the state. Access to recreational areas shall emphasize both consolidated park or open space areas and trail access.

(e) Commercial components of the use that are not explicitly related to the recreational operation must also conform to the standards of Section 16.55.430 (Commercial Development).

Section 48: There is hereby added a new section 16.55.470 to the Pullman City Code that reads as follows:

## 16.55.470 Residential Development.

(1) Policies.

(a) Aim for current and planned shoreline residential uses that have adequate provision of services and utilities while appropriately allowing for shoreline ecological protection.

(b) Residential development in the City of Pullman should aim to control pollution and prevention of damage to the shoreline so as to ensure no net loss of ecological function.

(c) Residential development should aim to minimize environmental impact through ecological restoration and other measures.

(d) Recognize that single-family residences are a common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline through cumulative impacts from shoreline armoring, stormwater runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

(e) Prohibit new floating homes.

(2) Regulations.

(a) New residential lots created through land division shall be in accordance with the following:

(i) Comply with all applicable subdivision and zoning regulations and be consistent with applicable SMP environment designations and standards.

(ii) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions result from the plat or subdivision at full build-out of lots.

(iii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

(b) Residential development, including accessory uses and appurtenant structures, shall:

(i) Meet all applicable critical area, vegetation, and water quality standards of this SMP.

(ii) Be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bulkheads and other stabilization structures, are not required to protect such structures and uses.

(iii) Be located, designed, and constructed in a manner that assures no net loss of shoreline ecological functions.

(c) New floating homes shall be prohibited.

(d) Residential accessory uses or appurtenances shall not be located in required shoreline buffers unless specifically authorized in this SMP. Residential accessory uses shall be prohibited over the water unless clearly water-dependent for recreational or personal use.

(e) In accordance with Subsection 16.55.300(2)(e)(v) of this SMP, new multiple-unit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access.

(f) All new residential developments and subdivisions shall comply with the Environmental Protection regulations of Section 16.55.250 and with the Shoreline Stabilization regulations in Subsection 16.55.560(2)(a).

Section 49: There is hereby added a new section 16.55.480 to the Pullman City Code that reads as follows:

## 16.55.480 Transportation and Parking.

(1) Policies.

(a) Provide for safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary.

(b) Allow for maintenance and improvements to existing roads, railroads and parking areas and for necessary new roads and parking areas where alternative locations outside of the shoreline jurisdiction are not feasible.

(c) Promote additional trail connections that are consistent with local and regional plans.

(d) Plan circulation systems that include pedestrian, bicycle, and public transportation where appropriate, and in support of existing proposed shoreline uses that are consistent with this SMP.

(2) Regulations.

(a) Where other options are available and feasible, new roads, road expansions, or railroads shall not be built within shoreline jurisdiction. When new roads, road expansions, or railroads are unavoidable, proposed transportation facilities shall be planned, located, and designed to achieve the following:

(i) Minimize possible adverse effects on unique or fragile shoreline.

(ii) Maintain no net loss of shoreline ecological functions and implement mitigation standards of this SMP.

(iii) Set back from the OHWM to the maximum distance feasible to allow for a usable shoreline area for vegetation conservation and planned shoreline uses unless infeasible, standards for ADA accessibility and functionality cannot

be met, or the cost is disproportionate to the cost of the proposal (the shoreline buffer requirement would add more than twenty percent [20%] to the total project cost).

(b) Parking facilities shall be allowed only as necessary to support an authorized use and are not a preferred use. Parking that does not require a shoreline location to carry out its functions shall:

(i) Be sited outside of shoreline jurisdiction unless no feasible alternative location exists.

(ii) Be planted or landscaped, preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

(iii) Observe all regulations regarding critical areas and shoreline buffers.

(iv) Be designed to incorporate low-impact development practices, such as pervious surfaces and bioswales, to the extent feasible.

(c) Public roads within the shoreline jurisdiction shall, where possible, provide and maintain visual access to scenic vistas, including, but not limited to, turnouts, rest areas, and picnic areas.

(d) Use of impervious materials for trails and associated viewing platforms shall be minimized.

(e) Shoreline crossings and culverts shall be designed to mitigate impact to riparian and aquatic habitat and shall allow for fish passage. Crossings shall occur as near to perpendicular with the waterbody as possible, unless an alternate path would minimize disturbance of native vegetation or result in avoidance of other critical areas such as wetlands.

(f) Crossings that are to be used solely for access to private property shall be designed, located, and constructed to provide access to more than one lot or parcel of property, where feasible, to minimize the number of crossings.

(g) Transportation proposals shall be consistent with circulation system plans for roads, railroads, pedestrian, bicycle, and public transportation. The SMP Administrator shall condition transportation proposals to be consistent with applicable City, state, or federal plans and construction standards, as appropriate.

(h) The provisions of Section 16.55.380 (Frequently Flooded Areas) shall be addressed in the design of transportation facilities.

(i) All transportation facilities shall comply with the Environmental Protection regulations of Section 16.55.250.

(j) Public access standards in Section 16.55.300 shall be met.

(k) If an applicant proposes to pave a roadway or parking area, the proposal shall comply with applicable water quality, landscaping, stormwater, and other applicable requirements of this SMP and the Pullman City Code or any locally applicable regulations.

(l) When a new or expanded roadway or new or expanded parking facility is proposed, the City may condition the proposal to provide a maintenance plan that promotes best management practices to achieve no net loss of shoreline ecological function, including but not limited to restrictions on the use of herbicides, hazardous substances, sealants or other liquid oily substances, or de-icing practices adjacent to shoreline buffers or critical areas and their buffers.

Section 50: There is hereby added a new section 16.55.490 to the Pullman City Code that reads as follows:

## 16.55.490 Utilities.

(1) Policies.

(a) Allow for new, expanded, and maintained utilities with criteria for location and vegetation restoration as appropriate.

(b) Minimize physical and aesthetic disturbance to the shoreline when siting utilities. When feasible, utilities should be placed underground or designed to do minimal damage to aesthetic qualities of the shoreline.

(2) Regulations.

(a) Preference shall be given to utility systems contained within the footprint of an existing right-of-way or utility easement over new locations for utility systems.

(b) Utility projects within shoreline jurisdiction shall be designed to achieve no net loss of shoreline ecological function, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

(c) Utility projects within shoreline jurisdiction shall comply with the Environmental

Protection regulations of Section 16.55.250.

(d) Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater- oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

(e) Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

(f) Development of pipelines and cables in shoreline jurisdiction, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

(g) Installation of utilities across watercourses shall be accomplished by boring beneath the scour depth and hyporheic zone of the waterbody and channel migration zone, where feasible.

(h) Utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible.

(i) Utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

(j) Existing utility services routed through shoreline areas shall not be a sole justification for more intense development.

Section 51: There is hereby added a new section 16.55.500 to the Pullman City Code that reads as follows:

## 16.55.500 Redevelopment, Repair, and Maintenance.

This section addresses how regulations apply to redevelopment, repair, or maintenance activities; clarifies how SMP standards proportionally apply to redevelopment activities; and provides a process for multi-year management plans for maintenance and repair.

(1) Policies. Allow all normal redevelopment, repair, and maintenance activities in the shoreline, as defined in Section 16.55.100 (Definitions), unless significant alterations or impacts to the shoreline ecological function will occur as a result of this activity.

(2) Regulations.

(a) SMP provisions shall not apply retroactively to existing uses and developments.

(b) Legally established uses and developments may be maintained, repaired, and operated within shoreline jurisdiction and within shoreline and critical area buffers established in this SMP. Normal maintenance and repair is exempt from a Shoreline Substantial Development Permit, but not the standards of this SMP.

(c) SMP standards shall apply to expansions or alterations of uses or developments and to new development or redevelopment of a property as follows:

(i) The SMP Administrator shall determine the extent of compliance with SMP provisions.

(ii) The required provisions shall be related to and in proportion to the proposal. For example, if an upper story is added to a structure, requirements related to building heights and views may apply.

# Part IX. SHORELINE MODIFICATION POLICIES AND REGULATIONS

Section 52: Under Part IX. SHORELINE MODIFICATION POLICIES AND REGULATIONS, there is hereby added a new section 16.55.510 to the Pullman City Code that reads as follows:

## 16.55.510 General Requirements.

(1) Policies.

(a) Allow shoreline modifications if the use or activity is permitted under this Program or where it can be demonstrated that the proposed activities are necessary to support or protect an allowed use or development.

(b) Allow shoreline modifications if the use or activity is permitted under this Program and only when adverse individual and cumulative impacts are

avoided, minimized, and mitigated resulting in no net loss of shoreline ecological functions, in accordance with the mitigation sequence of this Program.

(2) Regulations.

(a) Structural shoreline modifications are only allowed where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(b) As much as possible, the number and extent of shoreline modifications shall be limited.

(c) Shoreline modifications shall only be approved if they are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

(d) Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring application of mitigation sequencing (See Subsection 16.55.250(2)(d)). As shoreline modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

(e) Those shoreline modifications that have a lesser impact on ecological functions shall be given preference.

(f) As modifications occur, all feasible measures to protect ecological shoreline functions and ecosystem-wide processes shall be incorporated.

Section 53: There is hereby added a new section 16.55.520 to the Pullman City Code that reads as follows:

## 16.55.520 Breakwaters, Jetties, Weirs, and Groins.

(1) Policies.

(a) Allow breakwaters, jetties, and groins to be located waterward of the OHWM only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose.

(b) Consider alternative structures with less impact where physical conditions make such alternatives feasible.

(2) Regulations.

(a) Breakwaters, jetties, weirs and groins may be allowed only as part of an approved watershed basin restoration project approved by the City and upon acquisition of any required state or federal permits.

(b) Breakwaters, jetties, and groins shall be limited to the minimum size necessary.

(c) Breakwaters, jetties, and groins must be designed to protect critical areas, and shall implement mitigation sequencing to achieve no net loss of ecological functions.

(d) Proposed designs for new or expanded structures shall be designed by qualified professionals, including both an engineer and a biologist.

(e) Permit requirements and the level of approval required is regulated by Table 16.55.320-1 in Section 16.55.320.

Section 54: There is hereby added a new section 16.55.530 to the Pullman City Code that reads as follows:

## 16.55.530 Dredging and Dredge Material Disposal.

(1) Policies.

(a) Site and design new development to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

(b) Ensure dredging and dredge material disposal is done in a manner that avoids or minimizes significant ecological impacts. Impacts that cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

(c) Discourage the disposal of dredge material on shorelands or wetlands within a channel migration zone.

(2) Regulations.

(a) As regulated in this SMP, dredging is the removal of bed material from below the OHWM or wetlands using other than unpowered, hand-held tools for one of the allowed dredging activities listed in Subsection 16.55.530(2)(d). This Section is not intended to cover other removals of bed material waterward of the OHWM or wetlands that are incidental to the construction of an otherwise authorized use or modification (e.g. shoreline crossings, bulkhead replacements). These in-water substrate modifications should be conducted pursuant to applicable general and specific use and modification regulations of this SMP.

(b) New development must be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

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

(d) Dredging may only be permitted for the following activities:

(i) Development of essential public facilities when there are no feasible alternatives.

(ii) Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.

(iii) Restoration or enhancement of shoreline ecological functions and processes benefiting water quality and/or fish and wildlife habitat.

(iv) Trenching to allow the installation of necessary underground utilities if no alternative, including boring, is feasible; impacts to fish and wildlife habitat are avoided to the maximum extent possible; and the installation does not alter the natural rate, extent, or opportunity of channel migration.

(e) Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. The site where the fill is to be placed must be located waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act habitat restoration project or, if approved through a Shoreline Conditional Use Permit, any other significant habitat enhancement project.

(f) Dredge material disposal within shoreline jurisdiction is permitted under the following conditions:

(i) Shoreline ecological functions and processes will be preserved, restored or enhanced, including protection of surface and groundwater; and

(ii) Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.

(g) Dredge material disposal in open waters may be approved only when authorized by applicable state and federal agencies, and when one of the following conditions apply:

(i) Land disposal is infeasible, less consistent with this SMP, or prohibited by law.

(ii) Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

(h) All applications for dredging or dredge material disposal shall include the following information, in addition to other application requirements:

(i) A description of the purpose of the proposed dredging activities.

(ii) A site plan outlining the perimeter of the area proposed to be dredged and the dredge material disposal area, if applicable.

(iii) A description of proposed dredging operations, including, but not limited to:

(aa) The method of removal.

(bb) The length of time required.

(cc) The quantity of material to be initially removed.

(dd) The frequency and quantity of projected maintenance dredging.

(iv) A description of proposed dredge material disposal, including, but not limited to:

(aa) Size and capacity of disposal site.

(bb) Means of transportation to the disposal site.

(cc) Future use of the site and conformance with land use policies and regulations, if applicable.

(v) Plans for the protection and restoration of the shoreline environment during and after dredging operations.

(vi) An assessment of potential impacts to ecological functions or processes from the proposal.

(vii) A mitigation plan to address identified impacts, if necessary.

Section 55: There is hereby added a new section 16.55.540 to the Pullman City Code that reads as follows:

## 16.55.540 Fill and Excavation.

(1) Policies.

(a) Allow fill when it is demonstrated to be the minimum extent necessary to accommodate an allowed shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes.

(b) Encourage fill when it is associated with restoration projects.

(2) Regulations.

(a) All fills shall be located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration. Any adverse impacts to shoreline ecological functions must be mitigated (See Subsection 16.55.250(2)(d)).

(b) Fills in wetlands, floodways, channel migration zones or waterward of the OHWM may be allowed only when necessary to support one or more of the following:

(i) Water-dependent uses.

(ii) Public access.

(iii) Cleanup and disposal of contaminated sediments as part of an interagency environmental clean- up plan.

(iv) Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program

of the Department of Natural Resources and/or the Dredged Material Management Office of the

U.S. Army Corps of Engineers.

(v) Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible.

(vi) Ecological restoration or enhancement when consistent with an approved restoration plan.

(vii) Maintenance or installation of flood hazard reduction measures consistent with a comprehensive flood hazard management plan and this SMP.

(viii) Protection of cultural resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fills must be coordinated with any affected Indian tribes.

(c) Upland fills not located within wetlands, floodways, or channel migration zones may be allowed provided they are:

(i) Part of an allowed shoreline use or modification, or necessary to provide protection to cultural resources.

(ii) Located outside applicable buffers, unless specifically allowed in buffers.

(d) All fills, except fills for the purpose of shoreline restoration, must be designed:

(i) To be the minimum size necessary to implement the allowed use or modification.

(ii) To fit the topography so that minimum alterations of natural conditions will be necessary.

(iii) To not adversely affect hydrologic conditions or increase the risk of slope failure, if applicable.

(e) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material with a minimum potential to degrade water quality and shall be obtained from a state-authorized source.

(f) A temporary erosion and sediment control (TESC) plan, including BMPs, consistent with the latest edition of the City-adopted Stormwater Management Manual for Eastern Washington (2004) or approved equivalent, shall be provided for all proposed fill activities. Disturbed areas shall be immediately protected from erosion using mulches, hydroseed, or similar methods, and revegetated, as applicable.

Section 56: There is hereby added a new section 16.55.550 to the Pullman City Code that reads as follows:

## 16.55.550 Shoreline Restoration and Enhancement.

(1) Policies.

(a) Promote restoration and enhancement actions that improve shoreline ecological functions and processes and target the needs of sensitive plant, fish and wildlife species as identified by Washington Department of Fish and Wildlife, Washington Department of Natural Resources, affected tribes, National Marine Fisheries Service, and/or U.S. Fish and Wildlife Service.

(b) Ensure restoration and enhancement of shorelines is designed using principles of landscape and conservation ecology and restores or enhances chemical, physical, and biological watershed processes that create and sustain shoreline habitat structures and functions.

(c) Seek funding to implement restoration and enhancement projects, particularly those that are identified in the Shoreline Restoration Plan of this SMP or in other pertinent plans. Funding may be sought by the City or other entities.

(d) Develop application processing guidelines that will streamline the review of restoration-onlyprojects.

(e) Allow for the use of tax incentive programs, mitigation banking, grants, land swaps, or other programs, as they are developed, to encourage restoration and enhancement of shoreline ecological functions and to protect habitat for fish, wildlife and plants.

(2) Regulations.

(a) Applicability. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring or enhancing habitat for priority species in shorelines. Such projects may include shoreline modification actions such as modification of vegetation, removal of non- native or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. This Section does not apply to mitigation.

(b) Shoreline restoration and enhancement projects must be designed using the best available scientific and technical information, and implemented using best management practices.

(c) All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.

(d) Shoreline restoration and enhancement shall not significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.

(e) Long-term maintenance and monitoring shall be included in restoration or enhancement proposals.

(f) Relief for OHWM shifts. Applicants seeking to perform restoration projects are advised to work with the City to assess whether and how the proposed project is allowed relief under RCW 90.58.580, in the event that the project shifts the OHWM landward.

Section 57: There is hereby added a new section 16.55.560 to the Pullman City Code that reads as follows:

## 16.55.560 Shoreline Stabilization.

(1) Policies.

(a) Locate and design new development to avoid the need for future shoreline stabilization to the extent feasible.

(b) Use structural shoreline stabilization measures only when nonstructural methods are infeasible. Nonstructural methods include building setbacks, structure relocation, groundwater management, and other measures.

(c) Ensure soft structural shoreline stabilization measures are used prior to hard stabilization measures unless demonstrated to be insufficient.

(d) Allow new or expanded structural shoreline stabilization only where

demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, or for reconfiguration of the shoreline for mitigation or enhancement purposes.

(e) Ensure all proposals for structural shoreline stabilization, both individually and cumulatively, do not result in a net loss of ecological functions.

(2) Regulations.

(a) New development must be located and designed to avoid the need for future shoreline stabilization, if feasible.

(i) Land subdivisions must be designed based on a geotechnical report to assure that future development of the created lots will not require shore stabilization for reasonable development to occur.

(ii) New development adjacent to steep slopes or bluffs must be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated in a geotechnical report.

(b) New development that would require shoreline stabilization that would cause significant impacts to adjacent or down-current properties and shoreline areas is prohibited.

(c) All proposals for shoreline stabilization structures, both individually and cumulatively, must not result in a net loss of ecological functions, and must be the minimum size necessary. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

(d) New or enlarged structural shoreline stabilization measures shall not be allowed, except as follows:

(i) To protect an existing primary structure, including residences, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis must evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering hard or soft structural shoreline stabilization.

(ii) In support of new nonwater-dependent development, including single-family

residences, when all of the conditions below apply:

(aa) The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.

(bb) Nonstructural measures, such as placing the development farther from the shoreline, reducing the size or scope of the proposal, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(cc) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as currents or waves.

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

(aa) The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.

(bb) Nonstructural measures, such as planting vegetation, or installing on-site drainage improvements, are not feasible over time or sufficient.

(cc) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

(iv) To protect projects for the restoration of ecological functions or for hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not

feasible or not sufficient to adequately address erosion causes or impacts.

(e) New hard structural shoreline stabilization measures shall not be authorized, except when a geotechnical report confirms that:

(i) There is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such hard structural shoreline stabilization measures, or

(ii) Delaying installation of new hard structural shoreline stabilization would preclude use of measures that would avoid impacts on ecological functions.

(f) New soft structural shoreline stabilization measures may be authorized when a geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years.

(g) An existing shoreline stabilization structure, hard or soft, may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. While replacement of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from the policies and regulations of this SMP.

(i) For purposes of this Section, "replacement" means the construction of new structure to perform a shoreline stabilization function of existing structure that can no longer adequately serve its purpose. Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

(ii) Replacement shall be regulated as a new shoreline stabilization measure, except for

the requirement to prepare a geotechnical analysis. A geotechnical analysis is not required for replacements of existing hard or soft structural shoreline stabilization with a similar or softer measure if the applicant demonstrates need to protect principal uses or structures from erosion caused by waves or other natural processes operating at or waterward of the OHWM.

(iii) Replacement hard structural shoreline stabilization measures shall not encroach waterward of the OHWM or waterward of the existing shoreline stabilization measure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. All other replacement hard structural shoreline stabilization measures shall be located at or landward of the existing shoreline stabilization structure.

(iv) Hard and soft shoreline stabilization measures may allow some fill waterward of the OHWM to provide enhancement of shoreline ecological functions through creation of nearshore shallow-water habitat and shoreline rearing habitat for salmonids.

(h) Repair and maintenance of existing shoreline stabilization measures may be allowed, subject to the following standards. While repair and maintenance of shoreline stabilization structures may meet the criteria for exemption from a Shoreline Substantial Development Permit, such activity is not exempt from

the policies and regulations of this SMP.

(i) Repair and maintenance includes modifications to an existing shoreline stabilization measure that are designed to ensure the continued function of the measure by preventing failure of any part. Limitations on repair and maintenance include:

(aa) If within a three-year time period, more than fifty percent (50%) of the length of an existing structure is removed, including its footing or bottom course of rock, prior to placement of new stabilization materials, such work will not be considered repair and maintenance and shall be considered replacement. Work that only involves the removal of material above the footing or bottom course of rock does not constitute replacement.

(bb) Any additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.

(cc) The placement of a new shoreline stabilization structure landward of a failing shoreline stabilization structure shall be considered a new structure, not maintenance or repair.

(dd) Areas of temporary disturbance within the shoreline buffer shall be expeditiously restored to their pre-project condition or better.

(i) Structural shoreline stabilization design and construction standards:

(i) Structural shoreline stabilization measures shall not extend waterward more than the minimum amount necessary to achieve effective stabilization, except for those elements that enhance shoreline ecological functions and minimize impacts.

(ii) Stairs or other water access measures may be incorporated into shoreline stabilization

measures, but shall not extend waterward of the measure or the OHWM.

(iii) All structural shoreline stabilization measures must minimize and mitigate any adverse impacts to ecological functions resulting from short-term construction activities. Techniques may include compliance with timing restrictions, use of best management practices, and stabilization of exposed soils following construction.

(j) In addition to other submittal requirements, the applicant shall submit the following as part of a request to construct a new, enlarged, or replacement shoreline stabilization measure:

(i) For a new or enlarged hard or soft structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with a Washington state engineering license. The report shall include the following:

(aa) An assessment of the necessity for structural shoreline stabilization by estimating time frames and rates of erosion and reporting on the urgency associated with the specific situation.

(bb) An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM, and documentation of the OHWM field determination.

(cc) An assessment of alternative measures to shoreline stabilization.

(dd) Where structural shoreline stabilization is determined to be necessary, the assessment must evaluate the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

(ee) Design recommendations for minimum sizing of hard structural or soft structural shoreline stabilization materials, including

gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long-term shoreline stability.

(ii) For replacements of existing hard structural shoreline stabilization measures with a similar measure, the applicant shall submit a written narrative providing a demonstration of need. The narrative must be prepared by a qualified professional. The demonstration of need shall consist of the following:

(aa) An assessment of the necessity for continued structural shoreline stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch or flow velocities, and location of the nearest primary structure.

(bb) An assessment of erosion potential resulting from the action of waves or other natural processes operating at or waterward of the OHWM in the absence of the hard structural shoreline stabilization, and documentation of the OHWM field determination.

(cc) An assessment of alternative measures to shoreline stabilization.

(dd) An assessment of the feasibility of using soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures.

(ee) Design recommendations for minimizing impacts of any necessary hard structural shoreline stabilization.

The demonstration of need may be waived when an existing hard structural shoreline stabilization measure is proposed to be repaired or replaced using soft structural shoreline stabilization measures, resulting in significant restoration of shoreline ecological functions or processes.

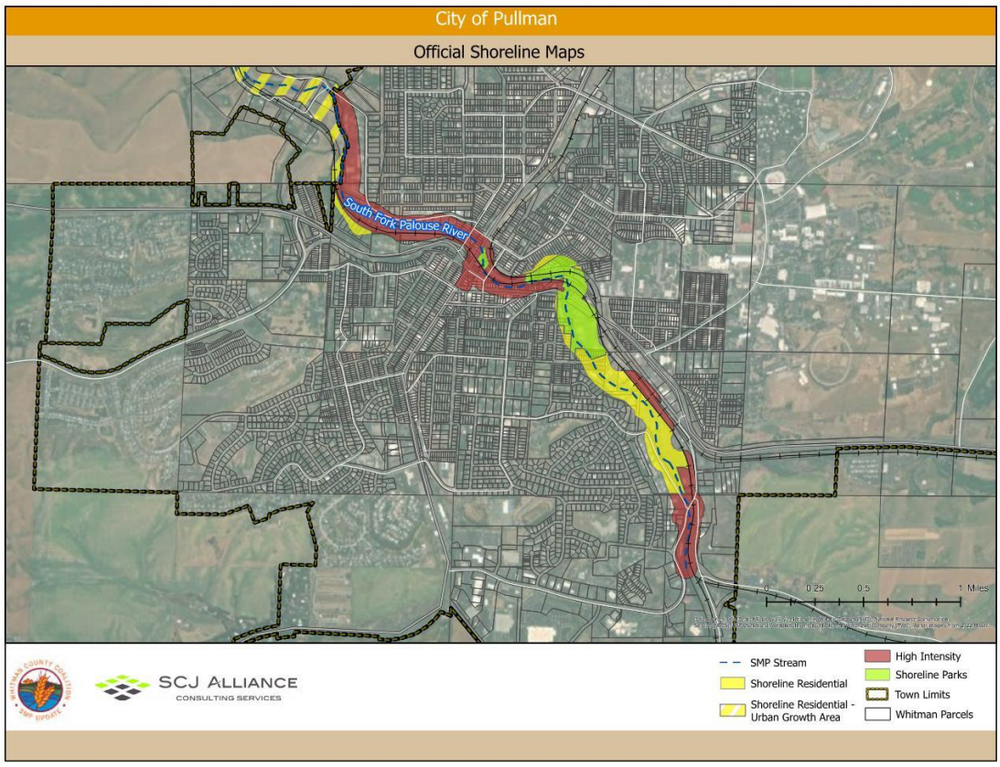
(iii) For all structural shoreline stabilization measures, including soft structural shoreline stabilization, detailed construction plans, including, but not limited to, the following:

(aa) Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs.

(bb) Detailed construction sequence and specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

Section 58: Severability. If any provision of this Ordinance or its application to any person or circumstances is held invalid by a court of competent jurisdiction, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

# Exhibit A: Shoreline Maps



PASSED by the City Council of the city of Pullman at a regular meeting held on the_____day of__, 2023.

Commented [RG7]: Update as needed

SIGNED by the Mayor in Authentication and Approval Thereof on the___day of__, 2023.

_____

Mayor

ATTEST:

_____

Finance Director

Approved as to Form:

_____

City Attorney

Summary Published:_____

# Periodic Review Checklist: 2021 version

This document is intended for use by counties, cities and towns subject to the Shoreline Management Act (SMA) to conduct the "periodic review" of their Shoreline Master Programs (SMPs). The review is required under the SMA at RCW 90.58.080(4). Ecology rules that define the procedures for conducting these reviews include a requirement to use this checklist to ensure a successful review (WAC 173-26-090). By filling out this checklist, the local government is demonstrating compliance with the minimum scope of review requirements of WAC 173-26-090(2)(d)(ii). The checklist is organized into two parts.

**Part One** is used to identify how the SMP complies with current state laws, rules and guidance. This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments.

**Part Two** is used to document local review to ensure the SMP is consistent with changes to the local comprehensive plans or development regulations, and to consider changes in local circumstances, new information or improved data. As part of this periodic review the local government should include consideration of whether or not the changes warrant an SMP amendment.

## How to use this checklist

See the associated *Periodic Review Checklist Guidance* for a description of each item, relevant links, review considerations, and example language.

Use the **review column** to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b). Ecology recommends reviewing all items on the checklist.

Use the **action column** as a final summary identifying your final action taken to address the identified change in state law, rule or guidance. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b). This will likely include one of the following:

- Amendment proposed (include code citation);
- No amendment needed; or
- Not applicable.

## Example

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2017a | OFM adjusted the cost threshold for substantial development to $7,047. | 21A.25.290B refers to the statutory thresholds, as amended by OFM. | No amendments needed. |

## For more information

Coordinate with Ecology regional planner for more information on how to use this checklist and conduct the periodic review.

| Prepared By | Jurisdiction | Date |
|---|---|---|
| Malissa Paulsen, Rachel Granrath<br>SCJ Alliance | City of Pullman | 01/09/2023 |

# Part One: State laws, rules and guidance review

**Part One** is used to demonstrate compliance with WAC 173-26-090(2)(d)(i)(A). This checklist identifies amendments to state law, rules and applicable updated guidance adopted between 2007 and 2021 that may trigger the need for local SMP amendments during periodic reviews.*

| *Row* | *Summary of change* | *Review* | *Action* |
|---|---|---|---|
| 2021 | | | |
| **a.** | The Legislature amended floating **on-water residences** provisions | 16.55.470, e. Floating homes are prohibited. | No Action Needed |
| **b.** | The Legislature clarified the permit exemption for **fish passage projects** | 16.55.160, 3 references RCW 90.58.147. | Could use inclusion of example language for clarity. **Added 16.55.160, 3, b** |
| 2019 | | | |
| **a.** | OFM adjusted the **cost threshold for building freshwater docks** | Boating facilities, such as docks are prohibited. | No Action Needed. |
| 2017 | | | |
| **a.** | OFM adjusted the **cost threshold for substantial development** to **$8,504.** | Pg. 43, 16.55.100, 207. Definitions: Substantial Development. Currently at $6,416 | Needs updated to include newest threshold. **Changed to $8,504 (ECY 7/1 threshold)** |
| **b.** | Ecology permit rules clarified the **definition of "development"** does not include dismantling or removing structures. | Pg. 16-17, 16.55.100, 53. Definitions: Development. Does not mention dismantling or removing structures. | Needs updated to include DOE clarification. **Added 16.55.100, 53, e** |
| **c.** | Ecology adopted rules clarifying **exceptions to local review under the SMA.** | RCW 90.58.355 mentioned in 16.55.160, 3, and with exempt definition 16.55.100, 65. | Inclusion of DOE example language could help clarify updates. **Added 16.55.160, 3, c** |
| **d.** | Ecology amended rules clarifying **permit filing procedures** consistent with a 2011 statute. | WAC 173-27 mentioned in 16.55.130, 1. "date of filing" mentioned within 16.55.130, 5. No mention of "date of receipt" in the SMP. | No Action Needed. |
| **e.** | Ecology amended **forestry use regulations** to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs. | Forest Practices are prohibited in all shoreline jurisdictions in City of Pullman | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| **f.** | Ecology clarified the SMA does not apply to lands under **exclusive federal jurisdiction** | No exemption found for federal land jurisdiction. | Update needed to include DOE example language. **Added DOE example language under 16.55.050, 3, f** |
| **g.** | Ecology clarified "default" provisions for **nonconforming uses and development**. | Definitions are already separated under 16.55.100, building/structure (130), lots (131), Use (132). Non-conforming uses and structures together under 16.55.170 | Could separate sections to clarify differences. **Separated sections under 16.55.170** |
| 2016 | | | |
| **a.** | The Legislature created a new shoreline permit exemption for retrofitting existing structure to comply with the **Americans with Disabilities Act**. | Exemption not found. | Add DOE example language. **Added 16.55.160, 3, d** |
| **b.** | Ecology updated **wetlands critical areas guidance** including implementation guidance for the 2014 wetlands rating system. | Section 16.55.360, 2, a, references Eastern Washington rating system. | No Action Needed. |
| 2015 | | | |
| **a.** | The Legislature adopted a **90-day target** for local review of Washington State Department of Transportation (WSDOT) projects. | 90.58.140 referenced under 16.55.160 | No Action Required, suggest clarification through DOE example language. **Added 16.55.130, 1, a.** |
| 2012 | | | |
| **a.** | The Legislature amended the SMA to clarify **SMP appeal procedures**. | Appeal process referenced but not outlined. | No Action Required. |
| 2011 | | | |
| **a.** | Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved **federal wetland delineation manual**. | Mentioned under 'Wetland edge' definition. | No Action Needed. |
| **b.** | Ecology adopted rules for new commercial **geoduck aquaculture**. | No saltwater shorelines in County. | No Action Needed. |
| **c.** | The Legislature created a new definition and policy for **floating homes** permitted or legally | 16.55.470, 1, e. Floating homes are prohibited. | No Action Needed. |

| Row | Summary of change | Review | Action |
|---|---|---|---|
| | established prior to January 1, 2011. | | |
| **d.** | The Legislature authorizing a new **option to classify existing structures as conforming**. | SMP contains clarified language | No Action Needed |
| 2010 | | | |
| **a.** | The Legislature adopted **Growth Management Act – Shoreline Management Act clarifications**. | SMP contains clarified language | No Action Needed |
| 2009 | | | |
| **a.** | The Legislature created new "relief" procedures for instances in which a **shoreline restoration project within a UGA** creates a shift in Ordinary High Water Mark. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology adopted a rule for certifying **wetland mitigation banks**. | SMP contains clarified language | No Action Needed |
| **c.** | The Legislature added **moratoria authority** and procedures to the SMA. | SMP contains clarified language | No Action Needed |
| 2007 | | | |
| **a.** | The Legislature clarified **options for defining "floodway"** as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA. | SMP contains clarified language | No Action Needed |
| **b.** | Ecology amended rules to clarify that **comprehensively updated SMPs shall include a list and map of streams and lakes** that are in shoreline jurisdiction. | SMP contains clarified language | No Action Needed |

***** See additional considerations for Ocean Management within Ecology's Ocean Management Checklist and associated guidance for using the Ocean Management Checklist. This checklist and guidance summarizes state law, rules and applicable updated information related to Ocean Resources Management Act (ORMA) and the Washington State Marine Spatial Plan (MSP). All jurisdictions with coastal waters must implement ORMA and the MSP applies to all jurisdictions that overlap with the MSP Study Area. Clallam County, Jefferson County, Grays Harbor County, Pacific County, Ilwaco, Long Beach, Raymond, South Bend, Cosmopolis, Ocean Shores, Hoquiam, Aberdeen, Westport need to plan for ocean uses consistent with ORMA and the MSP and should be using the Ocean Management Checklist in addition to this Periodic Review Checklist.

# Part Two: Local review amendments

**Part Two** is used to demonstrate compliance with WAC 173-26-090(2)(d)(ii). This checklist identifies changes to the local comprehensive plans or development regulations, changes in local circumstances, new information or improved data that may warrant an SMP amendment during periodic reviews.

## Changes to Comprehensive Plan and Development regulations

| Question | Answer | | Discussion |
|---|---|---|---|
| Have you had Comprehensive Plan amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | The SMP is in line with the Comprehensive Plan vision and goals. |
| | ☒ | No | |
| Have your had Development Regulations amendments since the SMP comprehensive update that may trigger need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Has your Critical Areas Ordinance (CAO) been updated since the SMP comprehensive update? If yes, are there changes that trigger need for an SMP amendment? | ☒ | Yes | CAO was updated, but does not trigger need for SMP amendment |
| | ☐ | No | |
| Are CAO provisions incorporated by reference (with ordinance # and date) into your SMP? If yes, is it the current CAO or a previous version? | ☐ | Yes | No, the CAO is not incorporated into the SMP. |
| | ☒ | No | |
| Has any new shoreline area been annexed into your jurisdiction since your SMP was updated? If yes, were these areas pre-designated? | ☐ | Yes | |
| | ☒ | No | |
| Other | ☒ | Yes | ORD. 21-15 requires language change from planning department to department of community development, and associated titles. |
| | ☐ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP for consistency with amendments to the Comprehensive Plan and Development regulations. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| **16.55.100, 37 16.55.210, 1, 16.55. 220, 7 16.55.280, 2 16.55.400, 1** | Change 'Planning Department' to 'Department of Community Development' | ORD. 21-15 | Administrative change of title/department name. |
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

## Changes to local circumstance, new information, or improved data

| Question | Answer | | Discussion |
|---|---|---|---|
| Has your jurisdiction experienced any significant events, such as channel migration, major floods or landslides that impacted your shoreline and could trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have FEMA floodplain or floodway maps been recently updated for your jurisdiction? If your SMP extends shoreline jurisdiction to the entire 100-year floodplain, has FEMA updated maps that trigger a need for an SMP amendment? | ☐ | Yes | |
| | ☒ | No | |
| Have you issued any formal SMP Administrative Interpretations that could lead to improvements in the SMP? | ☐ | Yes | |
| | ☒ | No | |
| Are there any Moratoria in place affecting development in the Shoreline? | ☐ | Yes | |
| | ☒ | No | |
| Have staff identified the need for clarification based on implementation or other changes? e.g., modifications to environment designations, mapping errors, inaccurate internal references. | ☐ | Yes | |
| | ☒ | No | |
| Are there other changes to local circumstances, new information, or improved data that need to be addressed in your SMP? | ☐ | Yes | |
| | ☒ | No | |

If your review and evaluation resulted in proposed SMP text or map amendments, please create a table that identifies changes to the SMP to address changes to local circumstances, new information, or improved date. Example format:

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
| | | | |

| SMP Section | Summary of proposed change | Citation to any applicable RCW or WAC | Rationale for how the amendment complies with SMA or Rules |
|---|---|---|---|
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