

TOWN OF KRUPP

DRAFT SHORELINE MASTER PROGRAM



Source: <https://fortress.wa.gov/ecy/coastalatlus/UICoastalAtlas/Tools/ShorePhotos.aspx>

Prepared for
Grant County and Krupp

Prepared by
Anchor QEA, LLC
8033 West Grandridge Avenue, Suite A
Kennewick, Washington 99336

Prepared with assistance from
Oneza & Associates

This report was funded through a grant from the Washington State Department of Ecology

June 2013

1 Table of Contents:

2 SECTION I: Shoreline Goals and Policies (RCW 90.58.100) 1

3 Introduction 1

4 Relationship to GMA 1

5 Profile of the Shoreline Jurisdiction within the Town of Krupp..... 1

6 Development of Goals and Policies 2

7 Economic Development Elements 2

8 Public Access and Recreation Element 3

9 Circulation Element..... 3

10 Shoreline Uses and Modifications Element 4

11 Conservation Element 7

12 Historic, Cultural, Scientific, and Educational Resources Element 7

13 Flood Hazard Management Element..... 8

14 Private Property Right (WAC 173-26-191(2)(a)(i)) 8

15 SECTION II: Shoreline Regulations – KMC Chapter 14.19..... 9

16 Article I. Authority and Purpose 9

17 14.19.010 Authority 9

18 14.19.020 Applicability..... 9

19 14.19.030 Purpose 9

20 14.19.040 Relationship to Other Codes, Ordinances and Plans..... 10

21 14.19.050 Liberal Construction..... 10

22 14.19.060 Severability..... 11

23 14.19.070 Effective Date..... 11

24 Article II. Environment Designations..... 11

25 14.19.100 Environment Designations 11

26 14.19.110 Aquatic 12

27 14.19.120 Conservancy 13

28 Article III. General Regulations..... 14

29 14.19.200 Shoreline Use and Modification..... 14

30 14.19.210 Development Standards..... 17

31 14.19.220 Archaeological and Historic Resources 18

32 14.19.230 Environmental Protection..... 19

1	14.19.240	Shoreline Vegetation Conservation.....	20
2	14.19.250	Water Quality, Stormwater, and Nonpoint Pollution.....	21
3	14.19.260	Public Access	22
4	14.19.270	Flood Hazard Reduction.....	25
5	Article IV.	Shoreline Modifications and Uses Regulations	28
6	14.19.300	Agriculture	28
7	14.19.310	Fill and Excavation.....	29
8	14.19.320	In-stream Structures	30
9	14.19.330	Recreational Development	31
10	14.19.340	Residential Development	32
11	14.19.350	Shoreline Habitat and Natural Systems Enhancement Projects	33
12	14.19.360	Shoreline Stabilization	34
13	14.19.370	Transportation: Trails, Roads, and Parking.....	35
14	14.19.380	Utilities	37
15	Article V.	Critical Areas	38
16	14.19.400	General Provisions	38
17	14.19.410	General Performance Standards	46
18	14.19.420	Wetlands.....	50
19	14.19.430	Critical Aquifer Recharge Area.....	57
20	14.19.440	Fish and Wildlife Habitat Conservation Areas	60
21	14.19.450	Geologically Hazardous Areas.....	63
22	14.19.460	Frequently Flooded Areas	67
23	14.19.470	Existing structures and development.	69
24	14.19.480	Warning and disclaimer of liability.....	70
25	Article VI.	Existing Uses, Structures and Lots	70
26	14.19.500	Applicability.....	70
27	14.19.510	Nonconforming Uses.....	70
28	14.19.520	Nonconforming Structures	71
29	Article VII.	Administration and Enforcement	73
30	14.19.600	Roles and Responsibilities	73
31	14.19.610	Interpretation	74
32	14.19.620	Statutory Noticing Requirements	74

1 14.19.630 Application Requirements..... 74
2 14.19.640 Exemptions from Shoreline Substantial Development Permits 74
3 14.19.650 Shoreline Substantial Development Permits 79
4 14.19.660 Shoreline Conditional Use Permits 79
5 14.19.670 Shoreline Variance Permits..... 80
6 14.19.680 Duration of Permits 81
7 14.19.690 Initiation of Development 81
8 14.19.700 Review Process 82
9 14.19.710 Appeals..... 82
10 14.19.720 Amendments to Permits 83
11 14.19.730 Enforcement 83
12 14.19.740 Cumulative Effects of Shoreline Developments 84
13 14.19.750 Amendments to Shoreline Master Program 84
14 14.19.760 Definitions..... 85
15 14.19.770 Shoreline Environment Designation Map..... 105

16
17

18 **List of Tables:**

19 Table 14.19.200 (K). Shoreline Use and Modification Matrix..... 16
20 Table 14.19.210 (D). Shoreline Development Standards 18
21 Table 14.19.420 (C)(7)-1. Land Use Intensity Table: Types of Proposed Land Use 52
22 Table 14.19.420 (C)(7)-2. Buffer Widths 52
23 Table 14.19.420 (C)(10). Mitigation ratios for eastern Washington 54
24 Table 14.19.440 (B)(9)(f). Riparian Buffer Width 62

25
26

1 **SECTION I: Shoreline Goals and Policies (RCW 90.58.100)**

2 **Introduction**

3 Krupp Shoreline Master Program intends to implement the requirements of the Washington State
4 Shoreline Management Act (SMA) (Revised Code of Washington (RCW 90.58). The SMA was
5 enacted in 1971 to provide for the management and protection of shorelines of the state by
6 regulating development in the shoreline area. The goal of the SMA is "to prevent the inherent
7 harm in an uncoordinated and piecemeal development of the state's shorelines." (RCW
8 90.58.020) The SMA requires cities and counties to adopt a Shoreline Master Program to
9 regulate shoreline development and accommodate "all reasonable and appropriate uses"
10 consistent with "protection against adverse effects to the public health, the land and its
11 vegetation and wildlife, and the waters of the state and their aquatic life... and public rights of
12 navigation." The Department of Ecology adopted the 2003 Shoreline Management Act
13 Guidelines (Chapter 173-26 Washington Administrative Code (WAC)) (Guidelines) which
14 require local government review and updates of Shoreline Master Programs. The Krupp
15 Shoreline Master Program provides goals, policies and regulations for the development of the
16 Town's shorelines.

17 **Relationship to GMA**

- 18 A. A Shoreline Master Program (SMP) contains goals, policies, regulations, and a use
19 map that guides shoreline development in accordance with the SMA (RCW 90.58),
20 Washington State Department of Ecology (Ecology) SMP Guidelines (WAC 173-26),
21 and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).
- 22 B. The provisions of this program implement the requirements of the SMA. The Town’s
23 SMP is integrated with the Town’s land use regulation system. Consistent with RCW
24 36.70A.480, the goals and policies contained in this SMP shall be considered an
25 element of the Town’s comprehensive plan required by the Growth Management Act.
26 All other portions of this SMP, including the use regulations, are considered a part of
27 the Town’s development regulations required by the Growth Management Act, and
28 be part of the Unified Development Code.
- 29 C. The Inventory and Characterization Report; Restoration Plan; Cumulative Impacts
30 Analysis; No Net Loss Report; and Public Participation Plan are supporting
31 documents, and are not adopted as part of this Program or the Town’s Comprehensive
32 Growth Management Plan.
- 33 D. The Inventory and Characterization Report establishes the baseline against which the
34 standard “no net loss of shoreline ecological functions” is measured. The Restoration
35 Plan identifies and prioritizes shoreline restoration opportunities that may be
36 undertaken independently or in conjunction with mitigation for development impacts
37 to improve shoreline ecological functions over time.

38 **Profile of the Shoreline Jurisdiction within the Town of Krupp**

39 The Washington State Shoreline Management Act defines the Shoreline of the State as “all
40 ‘shorelines’ and ‘shorelines of statewide significance’ within the state” (RCW 90.58.030). The
41 shoreline includes floodways; land within 200 feet of the ordinary high water mark (OHWM) of
42 the waterways; floodplains up to 200 feet from the floodway edge; and associated wetlands

1 within the 100-year floodplain. Shorelines of statewide significance for east of the crest of the
2 Cascades (RCW 90.58.030) are those lakes, whether natural, artificial, or a combination thereof,
3 with a surface acreage of one thousand acres or more measured at the ordinary high water mark;
4 and streams or rivers (or segments of natural streams) “that have either: a mean annual flow of
5 200 cubic feet per second or more, or the portion downstream from the first 300 square miles of
6 drainage area.” Krupp shoreline jurisdiction includes shoreline along Upper Crab Creek. Crab
7 Creek is a Shoreline of Statewide Significance because of its 300 square miles of upstream
8 drainage area.

9 **Development of Goals and Policies**

10 Goals express broad value statements that reflect the Town’s vision of its shorelines. Goals also
11 provide a framework upon which the more detailed SMP shoreline use environments, policies,
12 regulations, and administrative procedures are based in subsequent chapters. Policies are more
13 detailed statements reflecting the Town’s goals and visions for its shorelines. Policies provide
14 detail to the broader goals with which they are associated, and act as a bridge between the goals
15 and implementing regulations.

16 The goals and policies of the SMP described in this element are categorized according to the
17 Master Program elements mandated in the SMA. The general goal and policy statements found
18 within each element of the Master Program are intended to provide the policy basis for
19 administration of the Town’s SMP.

20 **Economic Development Elements**

- 21 A. Goal A: Preserve and encourage existing and future agricultural land uses as viable
22 and as a significant economic activity within the community.
- 23 B. Goal B: Promote economic growth that conserves natural resources and open spaces,
24 and maintains environmental quality.
- 25 C. General Policies:
 - 26 1. Promote shoreline areas of Town of Krupp as an economic asset to the
27 community.
 - 28 2. Promote recreational opportunities along shoreline that are compatible with or
29 complement the character and existing uses of critical areas and shoreline.
 - 30 3. Give preference to economic activities which either leave natural shoreline
31 features such as trees, native plants and wildlife habitat unmodified, or which
32 modify them in a way which enhances human awareness and appreciation of
33 the shoreline and other natural and non-natural surroundings.
 - 34 4. Ensure that any economic activity taking place along the shorelines operates
35 without causing irreparable harm to the quantity of the site’s environment or
36 adjacent shorelands.
 - 37 5. Where possible, developments are encouraged to incorporate low impact
38 development techniques into new and existing projects and integrate
39 architectural and landscape elements that recognize the shoreline
40 environment.

- 1 2. Allow for maintenance and improvements to existing roads and parking areas.
- 2 Allow for necessary new roads and parking areas where other locations
- 3 outside of shoreline jurisdiction are not feasible.
- 4 3. Encourage development to increase connections within the community by
- 5 adding trails and sidewalks along shoreline when feasible and when
- 6 compatible with the natural character, resources, and ecology of the shoreline.
- 7 4. Encourage low-impact parking facilities, such as those with permeable
- 8 pavements and bio-swales.

9 **Shoreline Uses and Modifications Element**

- 10 A. Goal A: Encourage shoreline development that recognizes the Town of Krupp's
- 11 natural and cultural values and its unique aesthetic qualities offered by its variety of
- 12 shoreline environment.
- 13 B. Goal B: For shorelines of state-wide significance (SSWS), protection and
- 14 management priorities are to:
 - 15 1. Recognize and protect the state-wide interest over local interest;
 - 16 2. Preserve the natural character of the shoreline;
 - 17 3. Provide long-term over short-term benefit;
 - 18 4. Protect the resources and ecology of shorelines;
 - 19 5. Increase public access to publicly owned areas of shorelines; and
 - 20 6. Increase recreational opportunities for the public in shoreline areas.
- 21 C. General Policies:
 - 22 1. Ensure that uses, activities and facilities are located on the shorelines in such a
 - 23 manner as to retain or improve the quality of the environment and will
 - 24 maintain or improve the health, safety and welfare of the public.
 - 25 2. Ensure that proposed shoreline uses do not infringe upon the rights of others,
 - 26 upon the rights of private ownership, upon the rights of the public under the
 - 27 Public Trust Doctrine, and treaty rights of Indian tribes.
- 28 D. Shoreline Environment Designation Policies:
 - 29 1. Provide a comprehensive shoreline environment designation system to
 - 30 categorize the Town of Krupp's shorelines into environments based upon the
 - 31 primary characteristics of shoreline areas to guide the use and management of
 - 32 these areas.
 - 33 2. Assign appropriate environment designations for preservation of wildlife
 - 34 habitat area, natural resources and public agency operations. .
- 35 E. Fill and Excavation Policies:
 - 36 1. Limit fill waterward of the OHWM to support ecological restoration or to
 - 37 facilitate water-dependent or public access uses.

- 1 2. Allow fill consistent with floodplain regulations upland of the OHWM
2 provided it is located, designed and constructed to protect shoreline ecological
3 functions and ecosystem-wide processes, including channel migration, and is
4 the minimum necessary to implement an approved project.
- 5 F. In-Stream Structures Policies:
 - 6 1. Locate, plan and permit in-stream structures only when consistent with the full
7 range of public interests, ecological functions and processes, and
8 environmental concerns, with special emphasis on protecting and restoring
9 priority habitats and species.
- 10 G. Residential Development Policies:
 - 11 1. Consider single-family residential development as a priority use when
12 developed without adverse impacts to ecological functions.
 - 13 2. Locate and construct residential development in a manner that assures no net
14 loss of shoreline ecological functions.
 - 15 3. Ensure the overall density of development, lot coverage, and height of
16 structures is appropriate to the physical capabilities of the site and consistent
17 with the comprehensive plan.
 - 18 4. Ensure new residential development provides adequate buffers or open space
19 from the water to protect or restore ecological functions and ecosystem-wide
20 processes, to preserve views, to preserve shoreline aesthetic characteristics, to
21 protect the privacy of nearby residences, and to minimize use conflicts.
 - 22 5. Make adequate provisions for services and infrastructure necessary to support
23 residential development.
 - 24 6. Design and locate residential development to preserve existing shoreline
25 vegetation, to control erosion, and to protect water quality.
 - 26 7. Design and locate new residences so that shoreline stabilization will not be
27 necessary to protect the structure. The creation of new residential lots should
28 not be allowed unless it is demonstrated the lots can be developed without:
 - 29 a. Constructing shoreline stabilization structures (such as bulkheads).
 - 30 b. Causing significant erosion or slope instability.
 - 31 c. Removing existing native riparian vegetation within shoreline buffers.
- 32 H. Shoreline Habitat and Natural Systems Enhancement Projects Policies:
 - 33 1. Include provisions for shoreline vegetation restoration, fish and wildlife
34 habitat enhancement, and low impact development techniques in projects
35 located within shoreline jurisdiction, where feasible.
 - 36 2. Encourage and facilitate implementation of projects and programs included in
37 the Shoreline Master Program Shoreline Restoration and Enhancement Plan.
- 38 I. Shoreline Stabilization Policies:

- 1 1. Locate and design new development, including subdivisions, to eliminate the
2 need for new shoreline modifications or stabilization.
- 3 2. Design, locate, size and construct new or replacement structural shoreline
4 stabilization measures to minimize and mitigate the impact of these
5 modifications on the Town's shorelines.
- 6 3. Give preference to non-structural shoreline stabilization measures over
7 structural shoreline stabilization, and give preference to soft structural
8 shoreline stabilization over hard structural shoreline stabilization.
- 9 4. Allow location, design, and construction of riprap and other bank stabilization
10 measures primarily to prevent damage to existing development or to protect
11 the health, safety and welfare of the Town of Krupp's residents.
- 12 J. Utilities Policies:
- 13 1. Allow for utility maintenance and extension with criteria for location and
14 vegetation restoration as appropriate.
- 15 2. Plan, design, and locate utility facilities to minimize harm to shoreline
16 functions, preserve the natural landscape, and minimize conflicts with present
17 and future planned land and shoreline uses while meeting the needs of future
18 populations in areas planned to accommodate growth.
- 19 3. Do not permit new non-water-oriented primary utility production and
20 processing facilities, or parts of those facilities, such as power plants, solid
21 waste storage or disposal facilities within shoreline jurisdiction unless no
22 other options are feasible. Primary utility facilities, such as wastewater
23 treatment plants and including expansion of existing facilities, should be
24 located in shoreline jurisdiction only if no practical upland alternative or
25 location exists. Such facilities and expansions should be designed and located
26 to minimize impacts on shoreline ecological functions, including riparian and
27 aquatic areas, and to the natural landscape and aesthetics. Public health and
28 safety should be the highest priority for the planning, development and
29 operation of primary utility facilities.
- 30 4. Locate utility transmission facilities for the conveyance of services, such as
31 power lines, cables, and pipelines, outside of shoreline jurisdiction where
32 feasible. Where permitted within shoreline jurisdiction, such facilities should
33 be located within existing or approved road crossings, right-of-way and
34 corridors or in such a way as to minimize potential adverse impacts on
35 shoreline areas. Joint use of rights-of-way and corridors in shoreline areas
36 should be encouraged.
- 37 5. Locate new utility facilities so as not to require extensive shoreline protection
38 works.
- 39 6. Locate utility facilities and corridors to protect scenic views from public parks
40 and trails. Whenever possible, such facilities should be placed underground,
41 or alongside or under bridges.

- 7. Design utility facilities and rights-of-way to preserve the natural landscape and to minimize conflicts with present and planned land uses.

Conservation Element

- A. Goal A: The Town should conserve or enhance important natural, cultural, and scenic resources.
- B. Goal B: Wetlands and riparian functions should be protected because they provide important ecological functions that add to the quality of life.
- C. Policies:
 - 1. Protect streams, stream corridors, wetlands, natural shorelines, aquifers and unique, diverse or critical wildlife and native plant habitat.
 - 2. Enhance the values and functions of open space lands.
 - 3. The Town should support public and private land trusts in acquiring conservation easements that provide open space attributes, consistent with the intents of property owners.
 - 4. Control of erosion at its source as a means of controlling water pollution, flooding, and habitat damage downstream should be encouraged.
 - 5. Control stormwater runoff in a manner consistent with low impact development practices which utilize natural detention, retention and recharge techniques to the maximum extent possible.
 - 6. Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within shoreline jurisdiction, and incentives to private property owners to encourage ecologically sound design and implementation of best land management practices.
 - 7. Work with other jurisdictional agencies in the region and with the private sector to deal effectively with regional and watershed-wide natural environment issues and the protection, preservation, and restoration/enhancement of flow in Crab Creek and associated fish and wildlife habitat.
 - 8. Enhance and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

Historic, Cultural, Scientific, and Educational Resources Element

- A. Goal A: Identify, preserve and protect historic, cultural and archaeological resources found to be significant by regional, local, state or federal processes.
- B. Policies:
 - 1. Identify, protect, preserve, and restore important archeological, historical, and cultural sites located in shorelands.

- 2. Prior to demolition, moving, or alteration to any designated historic, cultural, and archaeological landmark, ensure that due consideration is given to preservation or, at a minimum, documentation of its cultural or archaeological value.

Flood Hazard Management Element

A. Goal A: Protect public safety within Crab Creek floodway and floodplain and protect natural systems by preserving the flood storage function of floodplains.

B. Policies:

- 1. Manage development proposed within floodplains and floodways consistent with the Shoreline Management Act, the Federal Emergency Management Agency (FEMA) standards, and the Section II, Article V, Critical Areas Regulations for frequently flooded areas contained within this SMP.
- 2. Work with cities, and state and federal agencies to deal effectively with regional flooding issues.
- 3. Prohibit any development within the floodplain which would individually or cumulatively cause any increase in the base flood elevation beyond FEMA standards.

Private Property Right (WAC 173-26-191(2)(a)(i))

A. Goal A: Recognize and protect private property rights in shoreline uses and developments consistent with the public interest.

B. Policies:

- 1. Shoreline uses should be located and designed to respect private property rights, maintain privacy of private property, be compatible with the shoreline environment, protect ecological functions and processes, and protect aesthetic values of the shoreline.
- 2. Public access to shoreline such as trail, bikeways or roads should consider privacy of private property owners when locating them near private properties.

SECTION II: Shoreline Regulations – KMC Chapter 14.19

Article I. Authority and Purpose

14.19.010 Authority

- A. The Shoreline Management Act (SMA) of 1971, Chapter 90.58 RCW, is the authority for the enactment and administration of this Shoreline Master Program (SMP).

14.19.020 Applicability

- A. This Program shall apply to all of the shorelands and waters within the Town of Krupp as described in the Town’s SMP Section I, Profile of the Shoreline Jurisdiction within Krupp.
- D. All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit or other form of authorization is required, except when specifically exempted by statute. See the Town’s SMP Section I for the shoreline jurisdiction description and Section 14.19.760 for the definition of uses, activities, and development.
- E. The SMP applies to shoreline jurisdiction within the Town limits.
- F. Pursuant to WAC 173-27-060, federal agency activities may be required by other federal laws to meet the permitting requirements of chapter 90.58 RCW. This Program shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
- G. As recognized by RCW 90.58.350, the provisions of this Chapter shall not affect treaty rights of Indian Nations or tribes.
- H. Maps indicating the extent of shoreline jurisdiction and shoreline designations (Section 14.19.770) are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.

14.19.030 Purpose

- A. The purposes of this SMP are:
 - 1. To promote the public health, safety, and general welfare of the Town by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and
 - 2. To further assume and carry out the local government responsibilities established by the SMA in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the SMA in RCW 90.58.020; and
 - 3. To provide a high quality shoreline environment where:

- 1 a. Recreational opportunities are abundant;
- 2 b. The public enjoys access to and views of shoreline areas;
- 3 c. Natural systems are preserved, restored or enhanced;
- 4 d. Ecological functions of the shoreline are maintained and improved
- 5 over time;
- 6 e. Water-oriented uses are promoted consistent with the shoreline
- 7 character and environmental functions; and
- 8 4. To apply special conditions to those uses which are not consistent with the
- 9 control of pollution and prevention of damage to the natural environment or
- 10 are not unique to or dependent upon use of the state's shoreline; and
- 11 5. To assure no net loss of ecological functions associated with the shoreline.

12 **14.19.040 Relationship to Other Codes, Ordinances and Plans**

- 13 A. All applicable federal, state, and local laws shall apply to properties in the shoreline
- 14 jurisdiction. Where this Program makes reference to any RCW, WAC, or other state,
- 15 or federal law or regulation the most recent amendment or current edition shall apply.
- 16 B. In the event provisions of this SMP conflict with provisions of federal, state or Town
- 17 regulations, the provision that is most protective of shoreline resources shall prevail.
- 18 It is understood that the provisions of this chapter may not allow development to
- 19 occur at what otherwise might be the property's full zoning potential.
- 20 C. The policies in the SMP, contained in the Shoreline Master Program Elements, state
- 21 the underlying objectives the regulations are intended to accomplish. The policies
- 22 guide the interpretation and enforcement of the SMP regulations contained in this
- 23 Chapter. The policies are not regulations in themselves and, therefore, do not impose
- 24 requirements beyond those set forth in the regulations.
- 25 D. This Shoreline Master Program contains critical area regulations in Article V of this
- 26 Chapter, applicable only in shoreline jurisdiction that provide a level of protection to
- 27 critical areas assuring no net loss of shoreline ecological functions necessary to
- 28 sustain shoreline natural resources. (RCW 36.70A.480).
- 29 E. Projects in the shoreline jurisdiction that have been approved through local and state
- 30 reviews prior to the adoption of this Program are considered accepted. Major changes
- 31 or new phases of projects that were not included in the originally approved plan will
- 32 be subject to the policies and regulations of this Program.

33 **14.19.050 Liberal Construction**

- 34 A. As provided for in RCW 90.58.900, the SMA is exempted from the rule of strict
- 35 construction. The Town shall therefore interpret the SMP not only on the basis of
- 36 actual words and phrases used in it, but by also taking purposes, goals, and policies
- 37 into account.

1 **14.19.060 Severability**

2 A. Should any section or provision of this SMP be declared invalid, such decision shall
3 not affect the validity of this SMP as a whole.

4 **14.19.070 Effective Date**

5 A. The SMP is hereby adopted on the **XX date of XX, 201X**. This SMP and all
6 amendments thereto shall become effective immediately upon final approval and
7 adoption by Ecology.

8

9 **Article II. Environment Designations**

10 **14.19.100 Environment Designations**

11 A. The Town has designated shorelines pursuant to chapter 90.58 RCW by defining
12 them, providing criteria for their identification and establishing the shoreline
13 ecological functions to be protected. Project proponents are responsible for
14 determining whether a shoreline exists and is regulated pursuant to this Program. The
15 SMP classifies Krupp shoreline into two shoreline environment designations
16 consistent with the purpose and designation criteria as follows:

17 1. Aquatic

18 2. Conservancy

19 B. Official Shoreline Maps

20 1. Shoreline Area Designations are delineated on a map, hereby incorporated as
21 a part of this Program (Appendix A) that shall be known as the Official
22 Shoreline Map. The purpose of the Official Shoreline Map is to identify
23 Shoreline Area Designations. Maps indicating the extent of shoreline
24 jurisdiction and shoreline designations are guidance only. They are to be used
25 in conjunction with best available science, field investigations and on-site
26 surveys.

27 C. Unmapped or Undesignated Shorelines

28 1. All areas meeting the definition of a shoreline of the state or a shoreline of
29 statewide significance, whether mapped or not, are subject to the provisions of
30 this Program.

31 D. Interpretation of Environment Designation Boundaries

32 1. Whenever existing physical features are inconsistent with boundaries on the
33 Official Shoreline Map, the Shoreline Administrator shall interpret the
34 boundaries. Appeals of such interpretations may be filed pursuant to Section
35 14.19.710, Appeals.

36 2. All shoreline areas waterward of the OHWM shall be designated Aquatic.

37 3. Only one shoreline area designation shall apply to a given shoreland area.

- 4. All areas within shorelines that are not mapped and/or designated are automatically assigned Conservancy designation.

14.19.110 Aquatic

A. Purpose

- 1. The purpose of the “Aquatic” shoreline designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark (OHWM), recognizing Crab Creek flow is intermittent, and dependent upon upstream watershed conditions outside the control of the Town of Krupp.

B. Designation Criteria

- 1. An Aquatic shoreline designation is assigned to lands and waters waterward of the ordinary high-water mark, recognizing flow is often not present in Crab Creek for several summer months annually.

C. Management Policies

- 1. In addition to the other applicable policies and regulations of this Program, the following management policies shall apply:
 - a. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.
 - b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions, as applicable.
 - c. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions, recognizing shoreline ecological functions vary depending upon whether water is or is not present in Crab Creek. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.
 - d. On the Crab Creek stream bed, all uses and developments should be located and designed to:
 - i. consider impacts to public views
 - ii. allow for the safe, unobstructed passage of fish (when water present) and wildlife, particularly species dependent on migration
 - e. Multiple or shared use of over-channel and channel access facilities should be encouraged to reduce the impacts of shoreline development and increase effective use of resources.
 - f. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-channel structures should

1 be limited to the minimum necessary to support the structure's
2 intended use.

3 g. Shoreline uses, development, activities, and modifications in the
4 Aquatic shoreline designation requiring use of adjacent landside
5 property should be in a shoreline environment designation that allows
6 that use, development, activity or modification.

7 **14.19.120 Conservancy**

8 A. Purpose

9 1. The purpose of the “Conservancy” shoreline designation is to protect
10 shoreline ecological functions, conserve existing natural resources and
11 valuable historic and cultural areas in order to provide for sustained resource
12 and agricultural uses, achieve natural floodplain processes when flow is
13 present, and provide recreational and low-intensity residential development
14 opportunities, as applicable. Examples of uses that are appropriate in a
15 Conservancy shoreline designation include open space preservation,
16 agricultural uses, low-impact recreation uses, and low-intensity residential
17 development.

18 B. Designation Criteria

- 19 1. The following criteria are used to consider a Conservancy shoreline
20 designation:
- 21 a. The shoreline is located within the incorporated area and designated
22 urban growth area.
 - 23 b. The shoreline has ecological functions to preserve with opportunity for
24 restoration, recognizing flow is often not present in Crab Creek for
25 several summer months annually.
 - 26 c. The shoreline is planned or platted for agriculture uses.
 - 27 d. The shoreline is not highly developed with limited existing and future
28 potential for low-density residential development.
 - 29 e. The shoreline has limited potential for public, water-oriented
30 recreation.

31 C. Management Policies

- 32 1. In addition to the other applicable policies and regulations of this Program the
33 following management policies shall apply:
- 34 a. Uses in the Conservancy – shoreline designation should be limited to
35 those that sustain the shoreline area's physical and biological resources
36 and do not substantially degrade shoreline ecological functions and
37 processes or the rural, residential and natural character of the shoreline
38 area.

- 1 B. Accessory uses shall be subject to the same shoreline permitting process as their
2 primary use.
- 3 C. Where there is a conflict between the chart and the written provisions in this SMP, the
4 written provisions shall control.
- 5 D. Authorized uses and modifications shall be allowed only in shoreline jurisdiction
6 where the underlying zoning allows for it and are subject to the policies and
7 regulations of this SMP.
- 8 E. A use is considered unclassified when it is not listed in Table 14.19.200 (K),
9 Shoreline Use and Modification Matrix, or in the Shoreline Modifications and Use
10 Regulations, per Article IV of this Chapter. Any proposed unclassified use may be
11 authorized as a conditional use provided that the applicant can demonstrate
12 consistency with the requirements of this Chapter and the requirements for
13 conditional uses.
- 14 F. Exemptions shall be narrowly construed. Only those developments that meet the
15 precise terms of one or more of the listed exemptions may be granted exemption from
16 the Substantial Development Permit process.
- 17 G. If any part of a proposed activity, use, modification or development is not eligible for
18 exemption per Section 14.19.640 (Exemptions from Shoreline Substantial
19 Development Permits), then a Shoreline Substantial Development Permit or Shoreline
20 Conditional Use Permit shall be required for the entire proposed development project.
- 21 H. When a specific use or modification extends into the Aquatic environment and an
22 abutting upland environment without clear separation (e.g., shoreline stabilization),
23 the most restrictive permit process shall apply to that use or modification.
- 24 I. Shoreline and critical areas buffers found in Article V of this Chapter apply to all uses
25 and modifications unless stated otherwise in the regulations.
- 26 J. None of the allowed uses could be conducted in the floodway in any environment
27 designation, except as allowed by Section 14.19.460, Frequently Flooded Areas.
- 28 K. Shoreline use and modification matrix:
29

1

Table 14.19.200 (K). Shoreline Use and Modification Matrix

Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable;		
Use/ Modification	Aquatic	Conservancy
Resource Uses		
Agriculture	X	A
Fill and Excavation		
Waterward of OHWM	CU	N/A
Other upland fill	N/A	A
In-water Modifications		
In-stream structures	CU	CU ¹
Recreational Development		
Water-dependent	A	A
Water-related/enjoyment (trails, accessory buildings)	CU	A
Non-water-oriented	X	CU
Residential Development	X	A
Shoreline Habitat and Natural Systems Enhancement Projects	A	A
Shoreline Stabilization and Flood Control		
Flood Control		
Modification of existing flood control facilities (Dikes and Levees), including replacement landward of existing location	A	A
New flood control facilities (Dikes and Levees)	C	C
Shoreline Stabilization New		
Hard	CU	CU
Soft	A	A
Shoreline Stabilization Replacement: Hard replaced with hard	CU	CU
Shoreline Stabilization Replacement: Hard replaced with soft	A	A
Transportation		
Highways, Arterials, Railroads (parallel to OHWM)	CU	A
Secondary/Public Access Roads (parallel to OHWM)	X	A

Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable; Use/ Modification	Aquatic	Conservancy
Roads perpendicular to the OHWM	X	A
Bridges (perpendicular to shoreline)	CU	CU
Existing bridges, trails, roads, and parking facilities: improvement or expansion	A	A
New Parking, Accessory ²	Permitted under the primary use permit process	
New Parking, Primary	X	X
Utility		
Above and under-ground Utilities (parallel or across shoreline)	CU	A
¹ Habitat restoration and/or fish habitat enhance purposes only		
² Not allowed within 50ft of edge of riparian vegetation corridor		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

14.19.210 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 14.19.210 (D). These standards apply to all use and modification unless indicated otherwise. In addition, shoreline developments shall comply with all other dimensional requirements of the Krupp Municipal Code.
- B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance.
- C. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where the SMP does not prohibit the same and then only when overriding considerations of the public interest will be served.
- D. Shoreline development standards table:

1

Table 14.19.210 (D). Shoreline Development Standards

	Aquatic	Conservancy
Building Height: maximum in feet	NA	35
Impervious Surface Cover %	NA	30/15 ¹
Riparian Buffer Width in feet	NA	75
Trail Width in feet	NA	10
¹ 30% Impervious surface cover for residential land uses; 15% for agricultural land use as allowed in KMC Chapter 16.12		

2

3 **14.19.220 Archaeological and Historic Resources**

4 A. In all developments, whenever an archaeological area or historic site is discovered by
 5 a development in the shoreline area, the developer shall immediately stop the work
 6 and notify the Town of Krupp, and the Office of Archaeology and Historic
 7 Preservation and affected Indian tribes.

8 B. Upon receipt of application for a shoreline permit or request for a statement of
 9 exemption for development on properties within 500 feet of a site known to contain
 10 an historic, cultural or archaeological resource, or upon findings as described in
 11 Section 14.19.220 (A), the Town shall require a cultural resource site assessment;
 12 provided that, the provisions of this section may be waived if the Administrator
 13 determines that the proposed development activities do not include any ground
 14 disturbing activities and will not impact a known historic, cultural or archaeological
 15 site. The site assessment shall be conducted by a professional archaeologist or historic
 16 preservation professional, as applicable, to determine the presence of significant
 17 historic or archaeological resources. The fee for the services of the professional
 18 archaeologist or historic preservation professional shall be paid by the landowner or
 19 responsible party. The applicant shall submit a minimum of five (5) copies of the site
 20 assessment to the Shoreline Administrator for distribution to the applicable parties for
 21 review.

22 C. If the cultural resource site assessment identifies the presence of significant historic or
 23 archaeological resources, a Cultural Resource Management Plan (CRMP) shall be
 24 prepared by a professional archaeologist or historic preservation professional, as
 25 applicable. The fee for the services of the professional archaeologist or historic
 26 preservation professional shall be paid by the landowner or responsible party. In the
 27 preparation of such plans, the professional archaeologist or historic preservation
 28 professional shall solicit comments from the Washington State Department of
 29 Archaeology and Historic Preservation, and the local tribes (Colville).

1 **14.19.230 Environmental Protection**

2 A. All project proposals, including those for which a Shoreline Substantial Development
3 Permit is not required, shall comply with RCW Chapter 43.21C, the Washington
4 State Environmental Policy Act.

5 B. Applicants shall apply the following sequence of steps in order of priority to avoid or
6 minimize significant adverse effects and significant ecological impacts, with 1) being
7 top priority:

8 1. Avoiding the adverse impact altogether by not taking a certain action or parts
9 of an action;

10 2. Minimizing adverse impacts by limiting the degree or magnitude of the action
11 and its implementation by using appropriate technology or by taking
12 affirmative steps to avoid or reduce impacts;

13 3. Rectifying the adverse impact by repairing, rehabilitating, or restoring the
14 affected environment to the conditions existing at the time of the initiation of
15 the project;

16 4. Reducing or eliminating the adverse impact over time by preservation and
17 maintenance operations;

18 5. Compensating for the adverse impact by replacing, enhancing, or providing
19 substitute resources or environments; and

20 6. Monitoring the adverse impact and the compensation projects and taking
21 appropriate corrective measures.

22 C. Projects that cause significant adverse environmental impacts, as defined in WAC
23 197-11-794 and Section 14.19.760, Definitions, are not allowed unless mitigated
24 according to B, above, to avoid reduction or damage to ecosystem-wide processes and
25 ecological functions. As part of this analysis, the applicant shall evaluate whether the
26 project may adversely affect existing hydrologic connections between streams and
27 wetlands, and either modify the project or mitigate any impacts as needed.

28 D. The Town shall require mitigation measures and/or permit conditions based on the
29 provisions of this SMP, in order to mitigate adverse impacts. In order to determine
30 acceptable mitigation or permit conditions, the Shoreline Administrator may require
31 the applicant to provide the necessary environmental information and analysis,
32 including a description of existing conditions/ecological functions and anticipated
33 shoreline impacts, along with a mitigation plan outlining how proposed mitigation
34 measures would result in no net loss of shoreline ecological functions.

35 E. When compensatory measures are appropriate pursuant to the mitigation priority
36 sequence above, preferential consideration shall be given to measures that replace the
37 adversely impacted functions directly and in the immediate vicinity of the adverse
38 impact. However, alternative compensatory mitigation may be authorized within the
39 affected drainage area or watershed that addresses limiting factors or identified
40 critical needs for shoreline resource conservation based on watershed or
41 comprehensive resource management plans, including the Shoreline Restoration Plan,

1 applicable to the area of adverse impact may be authorized. Authorization of
2 compensatory mitigation measures may require appropriate safeguards, terms or
3 conditions as necessary to ensure no net loss of ecological functions.

4 F. In addition to any requirements for specific critical areas found in Article V, Critical
5 Areas, mitigation plans for any adverse impacts on ecological functions resulting
6 from use, activity or development in shoreline jurisdiction, both inside and outside of
7 critical areas, shall address the following:

- 8 1. Inventory existing shoreline environment including the physical, chemical and
9 biological elements and provide an assessment of their condition;
- 10 2. A discussion of the project's compliance with mitigation sequencing
11 requirements and remaining unavoidable adverse impacts on the ecological
12 functions;
- 13 3. A discussion of any federal, state, or local special management
14 recommendations which have been developed for critical areas or other
15 species or habitats located on the site;
- 16 4. A discussion of measures to preserve existing habitats and opportunities to
17 restore habitats that were degraded prior to the proposed land use activity;
- 18 5. A discussion of proposed measures which mitigate the adverse impacts of the
19 project to ensure no net loss of shoreline ecological functions;
- 20 6. Scaled drawings of existing and proposed conditions, materials specifications,
21 and a five-year maintenance and monitoring plan, including performance
22 standards;
- 23 7. A discussion of proposed management practices which will protect fish and
24 wildlife habitat both during construction, and after the project site has been
25 fully developed;
- 26 8. Contingency plan if the mitigation fails to meet established success criteria;
27 and
- 28 9. Any additional information necessary to determine the adverse impacts of a
29 proposal and mitigation of the impacts.

30 **14.19.240 Shoreline Vegetation Conservation**

- 31 A. Vegetation conservation standards shall not apply retroactively to existing uses and
32 developments. Vegetation associated with existing structures, uses and developments
33 may be maintained within shoreline jurisdiction as stipulated in the approval
34 documents for the development.
- 35 B. Regulations specifying establishment and management of shoreline buffers are
36 located in the Article V, Critical Areas. Vegetation within shoreline buffers, other
37 stream buffers, and wetlands and wetland buffers shall be managed consistent with
38 the Article V, Critical Areas.
- 39 C. Vegetation outside of shoreline buffers, other stream buffers, and wetlands and
40 wetland buffers and within shoreline jurisdiction shall be managed according to this

1 Section 14.19.230, Environmental Protection, and any other regulations specific to
2 vegetation management contained in other chapters of this SMP.

- 3 D. Vegetation clearing outside of wetlands and wetland and stream buffers shall be
4 limited to the minimum necessary to accommodate approved shoreline development
5 that is consistent with all other provisions of this SMP. Mitigation sequencing shall be
6 applied so that the design and location of the structure or development minimizes
7 native vegetation removal. Development or uses that require vegetation clearing shall
8 be designed to avoid the removal of native and non-native vegetation, except as part
9 of an effort to remove invasive, non-native vegetation species and replace these with
10 native species. Selective pruning of trees for safety and view protection is allowed.

11 **14.19.250 Water Quality, Stormwater, and Nonpoint Pollution**

- 12 A. The location, design, construction, and management of all shoreline uses and
13 activities shall protect the quality and quantity of surface and groundwater adjacent to
14 the site.
- 15 B. All shoreline development shall comply with the applicable requirements of the latest
16 version of the Washington State Department of Ecology's (Ecology) Stormwater
17 Management Manual for Eastern Washington.
- 18 C. Best management practices (BMPs) for control of erosion and sedimentation shall be
19 implemented for all shoreline development.
- 20 D. Potentially harmful materials, including but not limited to oil, chemicals, tires, or
21 hazardous materials, shall not be allowed to enter any body of water or wetland, or to
22 be discharged onto the land. Potentially harmful materials shall be maintained in safe
23 and leak-proof containers.
- 24 E. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-
25 five (25) feet of a water body, except by a qualified professional in accordance with
26 state and federal laws.
- 27 F. All shoreline development, both during and after construction, shall avoid or
28 minimize significant adverse ecological impacts, including any increase in surface
29 runoff, through control, treatment, and release of surface water runoff so that water
30 quality and quantity are not adversely affected. Control measures include, but are not
31 limited to, low impact development techniques, levees, catch basins or settling ponds,
32 oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
- 33 G. New development shall provide stormwater management facilities designed,
34 constructed, and maintained in accordance with the latest version of the Washington
35 State Department of Ecology's (Ecology) Stormwater Management Manual for
36 Eastern Washington, including the use of BMPs. Additionally, new development
37 shall implement low impact development techniques where feasible and necessary to
38 fully implement the core elements of the Surface Water Design Manual.
- 39 H. BMPs for control of erosion and sedimentation shall be implemented for all
40 development in shoreline jurisdiction through a Town-approved temporary erosion
41 and sediment control (TESC) plan, in accordance with the latest version of the

1 Ecology's Stormwater Management Manual for Eastern Washington, as adopted by
2 the Town.

3 I. For development activities with the potential for adverse impacts on water quality or
4 quantity in a stream or fish and wildlife habitat conservation area, a critical area
5 report as prescribed in Article V, Critical Areas, shall be prepared. Such reports
6 should discuss the project's potential to exacerbate water quality parameters which
7 are impaired and for which Total Maximum Daily Loads (TMDLs) for that pollutant
8 have been established, and prescribe any necessary mitigation and monitoring.

9 J. All materials that may come in contact with water shall be constructed of materials,
10 such as untreated wood, concrete, approved plastic composites or steel, that will not
11 adversely affect water quality or aquatic plants or animals. Materials used for decking
12 or other structural components shall be approved by applicable state agencies for
13 contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.
14 Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is
15 prohibited in shoreline waterbodies.

16 **14.19.260 Public Access**

17 A. Applicants required to provide shoreline public access shall provide physical or visual
18 access, consistent with the Town's and other agencies management plans when
19 applicable, unless specifically exempted in this section. Examples of physical and
20 visual access are listed below.

- 21 1. Visual Access. Visual public access may consist of view corridors,
22 viewpoints, or other means of visual approach to public waters.
- 23 2. Physical Access. Physical public access may consist of a dedication of land or
24 easement and a physical improvement in the form of a walkway, trail,
25 bikeway, park, view platform, or other area serving as a means of physical
26 approach to public waters.

27 B. Except as provided in SMP Section 14.19.260 (C)below, shoreline substantial
28 developments and shoreline conditional uses shall provide for safe and convenient
29 public access to and along the shoreline where any of the following conditions are
30 present:

- 31 1. The development is proposed by a public entity or on public lands;
- 32 2. The nature of the proposed use, activity, or development will likely result in
33 an increased demand for public access to the shoreline;
- 34 3. The proposed use, activity, or development is not a water-oriented or other
35 preferred shoreline use, activity or development under the Act, such as a non-
36 water-oriented commercial or recreational use;
- 37 4. The proposed use, activity, or development may block or discourage the use
38 of customary and established public access paths, walkways, trails, or
39 corridors; or

- 1 5. The proposed use, activity, or development will interfere with the public use,
2 activity and enjoyment of shoreline areas or waterbodies subject to the public
3 trust doctrine.
- 4 6. The proposed activity is a publicly financed shoreline erosion control measure
5 (when feasible).
- 6 C. An applicant shall not be required to provide public access where one or more of the
7 following conditions apply, provided such exceptions shall not be used to prevent
8 implementing the access and trail provisions mentioned in the Town's and other
9 agencies management plans. In determining the infeasibility, undesirability, or
10 incompatibility of public access in a given situation, the Town shall consider
11 alternative methods of providing public access, such as offsite improvements,
12 viewing platforms, separation of uses through site planning and design, and
13 restricting hours of public access::
- 14 1. Proposed use, activity, or development only involves the construction of four
15 or fewer single-family dwellings;
- 16 2. Proposed use is agricultural/ranching activities;
- 17 3. The nature of the use, activity, or development or the characteristics of the site
18 make public access requirements inappropriate due to health, safety, or
19 environmental hazards; the proponent shall carry the burden of demonstrating
20 by substantial evidence the existence of unavoidable or unmitigable threats or
21 hazards to public health, safety, or the environment that would be created or
22 exacerbated by public access upon the site;
- 23 4. An existing, new or expanded road or utility crossing through shoreline
24 jurisdiction shall not create the need for public access if the development
25 being accessed or served by the road or utility is located outside of shoreline
26 jurisdiction.
- 27 5. The proposed use, activity, or development has security requirements that are
28 not feasible to address through the application of alternative design features
29 for public access such as offsite improvements, viewing platforms, and
30 separation of uses through site planning and design;
- 31 6. The economic cost of providing for public access upon the site is
32 unreasonably disproportionate to the total long-term economic value of the
33 proposed use, activity, or development;
- 34 7. Safe and convenient public access already exists in the general vicinity of the
35 site, and/or the Town and agencies' plans show adequate public access at the
36 property; or
- 37 8. Public access has reasonable potential to threaten or harm the natural
38 functions and native characteristics of the shoreline and/or is deemed
39 detrimental to threatened or endangered species under the Endangered Species
40 Act.

- 1 D. Public access shall be located and designed to respect private property rights, be
2 compatible with the shoreline environment, protect ecological functions and
3 processes, and protect aesthetic values of shoreline, and provide for public safety. .
- 4 E. Shared community access may be allowed if there is no existing or planned public
5 access along the shoreline identified in the Town and other agencies' plan. Where
6 provided, community access shall be subject to all applicable development standards
7 of this section. Shared community access is not required when any of the conditions
8 under Section 14.19.260 (C) applies.
- 9 F. General Performance Standards
- 10 1. Uses, activities and developments shall not interfere with the regular and
11 established public use.
- 12 2. Shoreline substantial development or conditional uses shall minimize the
13 impact on views of shoreline waterbodies from public land or substantial
14 numbers of residences.
- 15 3. Proponents shall include within their shoreline applications an evaluation of a
16 proposed use, activity, or development's likely adverse impact on current
17 public access and future demands for access to the site. Such evaluation shall
18 consider potential alternatives and mitigation measures to further the policies
19 of this SMP and the provisions of this section.
- 20 4. Public access easements, trails, walkways, corridors, and other facilities may
21 encroach upon any buffers or setbacks required in Article V Critical Areas, or
22 under other provisions of this SMP, provided that such encroachment does not
23 conflict with other policies and regulations of this SMP, and that no net loss of
24 ecological function can be achieved.
- 25 5. Public access facilities shall accommodate persons with disabilities unless
26 determined infeasible by the Shoreline Administrator.
- 27 G. Trails and Levees
- 28 1. Existing trails shall be maintained and enhanced.
- 29 2. Where public access is to be provided by dedication of public access
30 easements along the OHWM, the minimum width of such easements shall be
31 10 feet.
- 32 H. Rights-of-Way, Easements, and Streets for Public Access
- 33 1. The Town shall maintain public rights of ways or easements as a means of
34 retaining public access on the shoreline. Proposed use, activity or
35 developments shall maintain public access provided by public street ends,
36 public utilities, and rights-of-way.
- 37 2. The public easements required pursuant to this section, for the purpose of
38 providing access across or through the site to the OHWM, shall be maintained
39 by the property owner to provide for reasonable and safe public access to the
40 OHWM.

I. Signage

1. Signage to be approved by the Shoreline Administrator shall be conspicuously installed along public access easements, trails, walkways, corridors, and other facilities to indicate the public’s right of use and the hours of operation. The proponent shall bear the responsibility for establishing and maintaining such signs.
2. The Shoreline Administrator may require the proponent to post signage restricting or controlling the public’s access to specific shoreline areas. The proponent shall bear the responsibility for establishing and maintaining such signage.

14.19.270 Flood Hazard Reduction

- A. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, as well as applicable guidelines of the Federal Emergency Management Agency and Section 14.19.460, Frequently Flooded Areas.
- 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) . Applicants for shoreline development or modification may submit a site-specific channel migration zone 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 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:
 1. New development or redevelopment landward of existing legal structures, such as publically owned and maintained levees, that prevent active channel movement and flooding.
 2. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. For the purposes of this section “unreasonable and disproportionate” means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

- 1 3. New or redeveloped measures to reduce shoreline erosion, provided that it is
2 demonstrated that the erosion rate exceeds that which would normally occur
3 in a natural condition, that the measures do not interfere with fluvial
4 hydrological and geo-morphological processes normally acting in natural
5 conditions, and that the measures include appropriate mitigation of adverse
6 impacts on ecological functions associated with the river or stream.
- 7 4. Actions that protect or restore the ecosystem-wide processes or ecological
8 functions or development with a primary purpose of protecting or restoring
9 ecological functions and ecosystem-wide processes.
- 10 5. Modifications or additions to an existing nonagricultural legal use, provided
11 that channel migration is not further limited and that the modified or expanded
12 development includes appropriate protection of ecological functions.
- 13 6. Repair and maintenance of existing legally established use and developments,
14 provided that channel migration is not further limited, flood hazards to other
15 uses are not increased, and significant adverse ecological impacts are avoided.
- 16 7. Existing and ongoing agricultural activities provided that no new restrictions
17 to channel movement are proposed.
- 18 D. Existing structural flood hazard reduction measures, such as levees, may be repaired
19 and maintained as necessary to protect legal uses on the landward side of such
20 structures. Increases in height of an existing levee, with any associated increase in
21 width, that may be needed to prevent a reduction in the authorized level of protection
22 of existing legal structures and uses shall be considered an element of repair and
23 maintenance.
- 24 E. Flood hazard reduction measures shall not result in channelization of normal stream
25 flows, interfere with natural hydraulic processes such as channel migration, or
26 undermine existing structures or downstream banks.
- 27 F. New development and subdivisions. Approve new development or subdivisions when
28 it can be reasonably foreseeable that the development or use would not require
29 structural flood hazard reduction measures within the channel migration zone or
30 floodway during the life of the development or use consistent with the following.
31 (WAC 173-26-221(3)(c)(i)).
 - 32 1. Floodway: New development and subdivisions shall be subject to applicable
33 floodway regulations in Section 14.19.460 and the Grant County Flood
34 Damage and Prevention Ordinance (GCC Chapter 24.16).
 - 35 2. Channel Migration Zone:
 - 36 a. New development in the channel migration zone is allowed subject to:
 - 37 i. Structures are located on an existing legal lot created prior to
38 XXXX (adoption of SMP);
 - 39 ii. A feasible alternative location outside of the channel migration
40 zone is not available on site; and

- 1 iii. To the extent feasible, the structure and supporting
2 infrastructure is located the farthest distance from the OHWM,
3 unless the applicant can demonstrate that an alternative
4 location is the least subject to risk.

- 5 b. New subdivisions in the channel migration zone may be allowed
6 subject to:
 - 7 i. All lots contain five thousand square feet or more of buildable
8 land outside of the channel migration zone;
 - 9 ii. Access to all lots does not cross the channel migration zone;
10 and
 - 11 iii. All infrastructure is located outside the channel migration zone
12 except that an on-site septic system is allowed in the channel
13 migration zone if: a feasible alternative location is not available
14 on site, and to the maximum extent practical, the septic system
15 is located the farthest distance from the OHWM.

- 16 G. New public and private structural flood hazard reduction measures shall be approved
17 when a scientific and engineering analysis demonstrates the following:
 - 18 1. that they are necessary to protect existing development;
 - 19 2. that nonstructural measures, such as setbacks, land use controls, wetland
20 restoration, dike removal, use or structure removal or relocation, biotechnical
21 measures, and stormwater management programs are not feasible;
 - 22 3. that adverse impacts on ecological functions and priority species and habitats
23 can be successfully mitigated so as to assure no net loss; and
 - 24 4. that appropriate vegetation conservation actions are undertaken consistent
25 with Section 14.19.240, Shoreline Vegetation Conservation.

- 26 H. Flood hazard reduction measures shall be placed landward of associated wetlands and
27 designated shoreline buffers, except for actions that increase ecological functions,
28 such as wetland restoration, or when no other alternative location to reduce flood
29 hazard to existing development is feasible as determined by the Shoreline
30 Administrator.

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

- 37 J. In those instances where management of vegetation as required by this SMP conflicts
38 with vegetation provisions included in state, federal or other flood hazard agency
39 documents governing Town-authorized, legal flood hazard reduction measures, the
40 vegetation requirements of this SMP will not apply. However, the applicant shall
41 submit documentation of these conflicting provisions with any shoreline permit

1 applications, and shall comply with all other provisions of this section and this SMP
2 that are not strictly prohibited by the approving flood hazard agency.

3 K. The removal of gravel or other riverbed material for flood management purposes shall
4 be allowed only after a biological and geo-morphological study shows that extraction
5 has a long-term benefit to flood hazard reduction, and does not result in a net loss of
6 ecological functions.

7 L. Roads shall be located outside the floodway, except necessary crossings which shall
8 be placed perpendicular to the waterbody as much as is physically feasible. New
9 transportation facilities shall be designed so that the effective base flood storage
10 volume of the floodplain is not reduced. The applicant shall provide all necessary
11 studies, reports and engineering analysis which shall be subject to review and
12 modification by the Town. If proposed transportation facilities effectively provide
13 flood control, they shall comply with policies and regulations of this section.

14
15 **Article IV. Shoreline Modifications and Uses Regulations**

16 **14.19.300 Agriculture**

17 A. Existing agricultural uses and future agriculture activities as allowed in the
18 Comprehensive Plan shall be allowed.

19 B. For shorelands used for agricultural practices, new or additional uses, activities, and
20 development that are not existing and ongoing agriculture shall be subject to the
21 following requirements:

22 1. Such uses, activities, and development shall be allowed or permitted in a
23 manner to ensure maintenance of ecological functions.

24 2. Vegetation enhancement shall be required where the shoreline has been
25 ecologically degraded.

26 3. If the new use, activity, or development is more intensive than the existing
27 and ongoing agriculture, no significant vegetation removal, development, or
28 grading shall occur in the shoreline buffer except as necessary to
29 accommodate low-intensity water-dependent uses and public access that
30 sustains ecological functions.

31 C. A Substantial Development Permit shall be required for all agricultural development
32 not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv).

33 D. SMP provisions shall apply in the following cases:

34 1. New agricultural activities on land not meeting the definition of agricultural
35 land ;

36 2. Expansion of agricultural activities on non-agricultural lands;

37 3. Conversion of agricultural lands to other uses;

38 4. Other development on agricultural land that does not meet the definition of
39 agricultural activities; and

- 1 5. Agricultural development and uses not specifically exempted by the Act.
- 2 E. New non-agricultural activities proposed on agricultural lands shall be consistent with
- 3 the environment designation and Table 14.19.200 (K), Shoreline Use and
- 4 Modification Matrix (, as well as other applicable shoreline use standards, e.g.,
- 5 Residential.
- 6 F. Agricultural uses and development in support of agricultural uses shall be located and
- 7 designed to assure no net loss of ecological functions and no significant adverse
- 8 impact on other shoreline resources and values.
- 9 G. New feedlots are prohibited in critical area buffers. Feed lots shall be located in such
- 10 a manner as to prevent waste runoff from entering surface water bodies or ground
- 11 water.
- 12 H. Agricultural uses and activities shall prevent and control erosion of soils and bank
- 13 materials within shoreline areas. They shall minimize siltation, turbidity, pollution
- 14 and other environmental degradation of watercourses and wetlands.
- 15 I. Agricultural chemicals shall be applied in a manner consistent with best management
- 16 practices for agriculture and Section 14.19.300.
- 17 J. New or redeveloped agricultural activities shall provide a buffer of permanent native
- 18 vegetation between all cropland or pasture areas and adjacent waters or wetlands
- 19 pursuant to the critical areas provisions of this SMP.
- 20 K. Agricultural development shall conform to applicable state and federal policies and
- 21 regulations.
- 22 L. New agricultural lands created by diking, draining, or filling wetlands or channel
- 23 migration zones shall not be allowed.

24 **14.19.310 Fill and Excavation**

- 25 A. Fill waterward of the OHWM, except fill to support ecological restoration, requires a
- 26 Conditional Use Permit and may be permitted only when:
 - 27 1. In conjunction with water-dependent or public access uses allowed by this
 - 28 SMP;
 - 29 2. In conjunction with a bridge or transportation facility of statewide significance
 - 30 for which there is a demonstrated public need and where no feasible upland
 - 31 sites, design solutions, or routes exist;
 - 32 3. In conjunction with implementation of an interagency environmental clean-up
 - 33 plan to clean up and dispose of contaminated sediments;
 - 34 4. Disposal of dredged material considered suitable under, and conducted in
 - 35 accordance with, the Dredged Material Management Program of the
 - 36 Washington Department of Natural Resources; or
 - 37 5. In conjunction with any other environmental restoration or enhancement
 - 38 project.

- 1 B. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in
2 preference to fills. Fills for approved road development in floodways or wetlands
3 shall be permitted only if pile or pier supports are proven not feasible.
- 4 C. Fill upland and waterward of the OHWM, including in non-watered side channels,
5 shall be permitted only where it is demonstrated that the proposed action will not:
 - 6 1. Result in significant ecological damage to water quality, fish, and/or wildlife
7 habitat;
 - 8 2. Significantly reduce public access to the shoreline or significantly interfere
9 with shoreline recreational uses.
- 10 D. Fill shall be of the minimum amount and extent necessary to accomplish the purpose
11 of the fill.
- 12 E. Excavation waterward of the OHWM or within wetlands shall be considered dredging
13 for purposes of this Program.
- 14 F. Fills or excavation shall not be located where shore stabilization will be necessary to
15 protect materials placed or removed. Disturbed areas shall be immediately stabilized
16 and revegetated, as applicable.
- 17 G. Fills and excavation shall be designed to blend physically and visually with existing
18 topography whenever possible, so as not to interfere with long term appropriate use
19 including lawful access and enjoyment of scenery.

20 **14.19.320 In-stream Structures**

- 21 A. In-stream structures are those structures placed by humans within a stream or river
22 waterward of the OHWM that either cause or have the potential to cause water
23 impoundment or the diversion, obstruction, or modification of water flow. In-stream
24 structures may include those for hydroelectric generation, irrigation, water supply,
25 flood control, transportation, utility service transmission, structures primarily
26 intended for fisheries management, or other purposes. Docks, piers and marinas are
27 not regulated as “in-stream structures” under this section of the SMP. See the
28 Transportation: Trails, Roads, and Parking section and the Utilities section of this
29 SMP for regulations governing road and utility crossings of streams.
- 30 B. General
 - 31 1. The location, planning and design of in-stream structures shall be compatible
32 with the following:
 - 33 a. the full range of public interests, demand for public access to shoreline
34 waters; desire for protection from floods; and need for preservation of
35 historical and cultural resources;
 - 36 b. protection and preservation of ecosystem-wide processes and
37 ecological functions, including, but not limited to, fish and wildlife,
38 with special emphasis on protecting and restoring priority habitats and
39 species, and water resources and hydro geological processes.

- 1 C. Structures shall be designed, located, and constructed consistent with mitigation
2 sequencing principles in Section 14.19.230, Environmental Protection and Article V,
3 Critical Areas, and as otherwise limited by floodplain regulations found in the
4 Town's SMP, Section I for Flood Hazard Reduction and Section 14.19.460,
5 Frequently Flooded Areas.
- 6 D. Structures shall be designed and located to minimize removal of riparian vegetation
7 and, if applicable, to return flow to the stream in as short a distance as possible.
- 8 E. In-stream structures shall provide for adequate upstream and downstream migration
9 of resident fish, as applicable, and shall not adversely affect salmonid fish species or
10 adversely modify salmonid fish habitat, as applicable.
- 11 F. Utilities and transmission lines shall be located so as to minimize obstruction or
12 degradation of views, and comply with applicable provisions of the Utilities section
13 of this SMP.
- 14 G. Mitigation shall be required of the proponent for the loss of ecological functions and
15 processes pursuant to Section 14.19. 230, Environmental Protection and Article V,
16 Critical Areas. No net loss in function, value, or acreage shall occur from such
17 development.

18 **14.19.330 Recreational Development**

- 19 A. Because of the nature of the shoreline and land use pattern, minimal recreational
20 development is anticipated in Krupp shoreline. General Preferences are as follows:
 - 21 1. Recreational uses and facilities shall include features that relate to access,
22 enjoyment, and use of the Krupp shorelines.
 - 23 2. Both passive and active shoreline recreation uses are allowed consistent with
24 the Town's Comprehensive Plan.
 - 25 3. Water-oriented recreational uses and activities are preferred in shoreline
26 jurisdiction. Water-dependent recreational uses shall be preferred as a first
27 priority and water-related and water-enjoyment recreational uses as a second
28 priority.
 - 29 4. Existing passive recreational opportunities, including nature appreciation,
30 non-motorized trails, environmental interpretation and native habitat
31 protection, shall be maintained.
 - 32 5. Preference shall be given to the development and enhancement of public
33 access to the shoreline to increase fishing and other water-related recreational
34 opportunities where feasible.
- 35 B. General Performance Standards
 - 36 1. The potential adverse impacts of all recreational uses shall be mitigated and
37 adequate provisions for shoreline rehabilitation shall be made part of any
38 proposed recreational use or development to ensure no net loss of shoreline
39 ecological function.

- 1 2. Sites with fragile and unique shoreline conditions, such as high-quality
2 wetlands and wildlife habitats, shall be used only for non-intensive recreation
3 activities, such as trails, viewpoints, interpretive signage, and similar passive
4 and low-impact facilities that result in no net loss of shoreline ecological
5 function, and do not require the construction and placement of permanent
6 structures.
- 7 3. In approving shoreline recreational developments, the Town shall ensure that
8 the development will maintain, enhance, or restore desirable shoreline features
9 including unique and fragile areas, scenic views, and aesthetic values.
- 10 C. Recreational developments shall provide facilities for non-motorized access to the
11 shoreline such as pedestrian and bicycle paths, and equestrian, as applicable. New
12 motorized vehicle access shall be located and managed to protect riparian, wetlands
13 and shrub steppe habitat functions and value.
- 14 D. Recreational development shall be consistent with provisions of Section 14.19.250,
15 Shoreline Vegetation Conservation and Article V, Critical Areas.
- 16 E. Accessory uses and support facilities such as maintenance facilities, utilities, and
17 other non-water-oriented uses shall be consolidated and located in upland areas
18 outside shoreline, wetland, and riparian buffers unless such facilities, utilities, and
19 uses are allowed in shoreline buffers based on the regulations of this SMP.
- 20 F. Recreational facilities shall make adequate provisions, such as screening, landscaping
21 buffer strips, fences and signs, to prevent trespass upon adjacent properties and to
22 protect the value and enjoyment of adjacent or nearby private properties and natural
23 areas, as applicable.
- 24 G. Recreational structures are only allowed to be built over water when they provide
25 public access or facilitate a water-dependent use and shall be the minimum size
26 necessary to accommodate the permitted activity.
- 27 H. Recreational development shall minimize effective impervious surfaces in shoreline
28 jurisdiction and incorporate low-impact development techniques.

29 **14.19.340 Residential Development**

- 30 A. Single-family residential development is a preferred use when it is developed in a
31 manner consistent with pollution control and preventing damage to the natural
32 environment.
- 33 B. Residential development shall be located and constructed to result in no net loss of
34 shoreline ecological function. No net loss of shoreline ecological functions shall be
35 assured through application of riparian buffers specified in Section 14.19.440, Fish
36 and Wildlife Habitat Conservation Areas to avoid future stabilization and other
37 provisions of this SMP related to shoreline stabilization, vegetation management, and
38 on-site sewage disposal.
- 39 C. Lots for residential use shall have a maximum density consistent with the Town's
40 Comprehensive Plan.

- 1 D. Accessory uses and structures shall be located outside of the riparian buffer, unless
2 the structure is or supports a water-dependent use.
- 3 E. All residential development shall be located or designed in such a manner as to
4 prevent measurable degradation of water quality from stormwater runoff. Adequate
5 mitigation measures shall be required and implemented where there is the reasonable
6 potential for such adverse effect on water quality.
- 7 F. Applications for new shoreline residences and appurtenant structures shall be
8 sufficiently set back from steep slopes and shorelines vulnerable to erosion so that
9 structural improvements, including bluff walls and other shoreline stabilization and
10 flood control structures are not necessary to protect proposed residences and
11 associated uses.
- 12 G. New floating residences and over-water residential structures shall be prohibited in
13 shoreline jurisdiction.
- 14 H. New residential development shall connect with sewer systems, when available.
- 15 I. All new residential development shall be required to meet the vegetation management
16 provisions contained in Section 14.19.240, Shoreline Vegetation Conservation and
17 Section 14.19.440, Fish and Wildlife Habitat Conservation Areas.

18 **14.19.350 Shoreline Habitat and Natural Systems Enhancement Projects**

- 19 A. Shoreline restoration and enhancement activities designed to restore or enhance
20 shoreline ecological functions and processes and/or shoreline features should be
21 targeted toward meeting the needs of sensitive and/or regionally important plant, fish,
22 and wildlife species, and shall be given priority.
- 23 B. Shoreline restoration, enhancement, and mitigation activities designed to create
24 dynamic and sustainable ecosystems to assist the Town in achieving no net loss of
25 shoreline ecological functions are preferred.
- 26 C. Restoration activities shall be carried out in accordance with an approved shoreline
27 restoration plan, and in accordance with the provisions of this SMP.
- 28 D. To the extent possible, restoration, enhancement, and mitigation activities shall be
29 integrated and coordinated with other parallel natural resource management efforts,
30 such as those identified in the shoreline restoration plan.
- 31 E. Habitat and expansion, restoration, and enhancement projects may be permitted
32 subject to required state or federal permits when the applicant has demonstrated that:
 - 33 1. The project will not adversely impact spawning, nesting, or breeding fish and
34 wildlife habitat conservation areas;
 - 35 2. Upstream or downstream properties or fish and wildlife habitat conservation
36 areas will not be adversely affected;
 - 37 3. Water quality will not be degraded;
 - 38 4. Flood storage capacity will not be degraded; and

- 1 G. Where a geotechnical analysis confirms a need to prevent potential damage to a
2 primary structure, but the need is not as immediate as three (3) years, the analysis
3 may still be used to justify more immediate authorization for shoreline stabilization
4 using bioengineering approaches.
- 5 H. Shoreline stabilization projects that are part of a fish habitat enhancement project
6 meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the
7 state process. Stabilization projects that are not part of such a fish enhancement
8 project will be regulated by this SMP.
- 9 I. Small-scale or uncomplicated shoreline stabilization projects (for example, tree
10 planting projects) shall be reviewed by a qualified professional to ensure that the
11 project has been designed using best available science.
- 12 J. Large-scale or more complex shoreline stabilization projects (for example, projects
13 requiring fill or excavation, placing objects in the water, or hardening the bank) shall
14 be designed by a qualified professional using the most current, accurate, and complete
15 technical and scientific information available. The applicant may be required to have
16 a qualified professional oversee construction or construct the project.
- 17 K. Standards for new stabilization structures when found to be necessary include
18 limiting the size to minimum, using measures to assure no net loss of shoreline
19 ecological functions, using soft approaches, and mitigating for impacts.

20 **14.19.370 Transportation: Trails, Roads, and Parking**

- 21 A. New or expanded motor vehicle transportation facilities shall not be located within
22 shoreline jurisdiction, unless:
 - 23 1. The proponent demonstrates that no feasible upland alternatives exist;
 - 24 2. The project represents the minimum development necessary to serve another
25 specific, localized, and permitted shoreline use; or
 - 26 3. In the case of a water crossing, the proponent demonstrates that the project is
27 necessary to further a substantial public interest.
- 28 B. When new roads or road expansions are unavoidable in shoreline jurisdiction,
29 proposed transportation facilities shall be planned, located, and designed to achieve
30 the following:
 - 31 1. Meet mitigation sequencing provisions of Section 14.19.230, Environmental
32 Protection;
 - 33 2. Avoid adverse impacts on existing or planned water-oriented uses;
 - 34 3. Set back from the OHWM to allow for a usable shoreline area for vegetation
35 conservation and any preferred shoreline uses unless infeasible;
 - 36 4. Minimize grading, vegetation clearing, and alterations of the natural
37 topography; and
 - 38 5. Use BMPs for preventing erosion and degradation of surface water quality.

- 1 C. Improvements to existing motor vehicle facilities shall not interfere with pedestrian
2 and bicycle access, and shall whenever possible, provide for expansion and
3 enhancement of pedestrian and bicycle transportation facilities.
- 4 D. The development, improvement, and expansion of pedestrian and bicycle
5 transportation facilities are allowed within all environments. Such transportation
6 facilities are a preferred use wherever they are compatible with the natural character,
7 resources, and ecology of the shoreline.
- 8 E. Pedestrian and bicycle transportation facilities shall be designed, located, and
9 constructed consistent with the policies and regulations for public access as provided
10 in Section 14.19.260, Public Access.
- 11 F. Parking facilities are not a water-dependent use and shall only be permitted in the
12 shoreline jurisdiction to support an authorized use where it can be demonstrated to the
13 satisfaction of the Shoreline Administrator that there are no feasible alternative
14 locations away from the shoreline. Parking as a primary use shall not be allowed in
15 any shoreline jurisdiction. Accessory parking facilities shall be subject to the same
16 permit type as the primary use.
- 17 G. Accessory parking facilities shall be located 50 feet upland of the edge of riparian
18 vegetation corridor and planned to avoid or minimize adverse effects on unique or
19 fragile shoreline features and shall not result in a net loss of shoreline ecological
20 functions or adversely affect existing or planned water-dependent uses. Parking
21 facilities shall be located upland of the principal structure, building, or development
22 they serve, and preferably outside of shoreline jurisdiction, except:
- 23 1. Where the proponent demonstrates that an alternate location would reduce
24 adverse impacts on the shoreline and adjacent uses;
 - 25 2. Where another location is not feasible; and/or
 - 26 3. Except when Americans with Disability Act (ADA) standards require
27 otherwise.
- 28 In such cases, the applicant shall demonstrate use of measures to reduce adverse
29 impacts of parking facilities in shoreline jurisdiction, such as low impact development
30 techniques, buffering, or other measures approved by the Shoreline Administrator
- 31 H. Parking facilities shall be landscaped in a manner to minimize adverse visual and
32 aesthetic impacts on adjacent shoreline and abutting properties.
- 33 I. All forms of transportation facilities shall, wherever feasible, consolidate water
34 crossings and make joint use of rights-of-way with existing or planned future primary
35 utility facilities and other transportation facility modalities.
- 36 J. Improvements to all existing transportation facilities shall provide for the
37 reestablishment and enhancement of natural vegetation along the shoreline when
38 appropriate.
- 39 K. Town shoreline crossings and culverts shall be designed to minimize adverse impacts
40 on riparian and aquatic habitat and shall allow for fish passage. See Section

1 14.19.440, Fish and Wildlife Habitat Conservation Areas for regulations governing
2 crossings of non-shoreline streams located in shoreline jurisdiction.

3 **14.19.380 Utilities**

4 A. Expansion of existing primary utility facilities within shoreline jurisdiction must
5 demonstrate:

- 6 1. The expansion is designed to protect adjacent shorelands from erosion,
7 pollution, or other environmentally detrimental factors during and after
8 construction.
- 9 2. The project is planned to fit existing natural topography as much as practical
10 and avoid alteration of the existing natural environment.
- 11 3. Debris, overburden, and other construction waste materials shall be disposed
12 of so as to prevent erosion or pollution of a waterbody.

13 B. New primary utility facilities and expansions shall include provisions to control the
14 quantity and quality of surface water runoff to natural waterbodies, using BMPs to
15 retain natural flow rates. A maintenance program to ensure continued proper
16 functioning of such new facilities shall be required.

17 C. Applications for installation of utility facilities shall include the following (at a
18 minimum):

- 19 1. Reason why the utility facility must be in shoreline jurisdiction;
- 20 2. Alternative locations considered and reasons for their elimination;
- 21 3. Location of the same, similar, or other utility facilities in the vicinity of the
22 proposed project;
- 23 4. Proposed method(s) of construction;
- 24 5. Plans for reclamation of areas to be disturbed during construction;
- 25 6. Landscape plans;
- 26 7. Methods to achieve no net loss of ecological function and minimize clearing
27 of native vegetation; and
- 28 8. Consistency with Town comprehensive plans for utilities, where such plans
29 exist.

30 D. Where feasible, utilities shall be consolidated within a single easement and utilize
31 existing rights-of-way. Any utility located within property owned by the utility
32 which must of necessity cross shoreline jurisdiction shall be designed and operated to
33 reserve the option of general public recreational usage of the right-of-way in the
34 future. This option shall be exercised by the public only where:

- 35 1. The public will not be exposed to dangers from the utility equipment; and
- 36 2. The utility itself will not be subjected to unusual risks of damage by the
37 public.

- 1 E. In areas where utilities must cross shoreline jurisdiction, they shall do so by the most
2 direct route feasible, unless such a route would negatively affect an environmentally
3 critical area, or obstruct public access to the shoreline. See Section 14.19.440, Fish
4 and Wildlife Habitat Conservation Areas for regulations governing crossings of non-
5 shoreline streams located in shoreline jurisdiction.
- 6 F. Utility facilities shall be designed and located in a manner that protects scenic views
7 and minimizes adverse aesthetic impacts.
- 8 G. New utilities which must be constructed across shoreline jurisdiction in previously
9 undisturbed areas must submit a mitigation plan demonstrating the restoration of the
10 shoreline to at least its existing condition. Upon completion of utility installation or
11 maintenance, any disturbed areas shall be regraded to be compatible with the natural
12 terrain of the area and revegetated with appropriate native plants to prevent erosion.
- 13 H. All underwater pipelines or those paralleling the waterway transporting liquids
14 potentially injurious to aquatic life or water quality shall be prohibited, unless no
15 other alternative exists to serve a public interest. In those limited instances where
16 permitted, shut-off valves shall be provided at both sides of the waterbody except for
17 public sanitary sewers of a gravity or siphon nature. In all cases, no net loss of
18 ecological functions shall be maintained.
- 19 I. Where utilities cannot cross a shoreline waterbody via a bridge or other existing water
20 crossing, the utilities shall evaluate site-specific habitat conditions and demonstrate
21 whether impacts can mitigated to negatively impact substrate, or whether utilities will
22 need to be bored beneath the waterbody such that the substrate is not disturbed.
23 Construction of pipelines placed under aquatic areas shall be placed in a sleeve to
24 avoid the need for excavation in the event of a failure in the future.
- 25 J. Minor trenching to allow the installation of necessary underground pipes or cables is
26 allowed if no alternative, including boring, is feasible, and if:
 - 27 1. Impacts on fish and wildlife habitat are avoided to the maximum extent
28 possible.
 - 29 2. The utility installation shall not increase or decrease the natural rate, extent, or
30 opportunity of channel migration.
 - 31 3. Appropriate BMPs are employed to prevent water quality impacts or other
32 environmental degradation.
- 33 K. Utility installation and maintenance operations shall be conducted in a manner that
34 does not negatively affect surface water quality or quantity. Applications for new
35 utility projects in shoreline jurisdiction shall include a list of BMPs to protect water
36 quality.

37
38 **Article V. Critical Areas**

39 **14.19.400 General Provisions**

- 40 A. Statutory Authorization

1 1. The Town shall regulate in the shoreline jurisdiction all uses, activities, and
2 development within, adjacent to, or likely to affect one or more critical areas,
3 consistent with the provisions of Article V – Critical Areas.

4 B. Purpose

5 1. The purpose of these regulations is to designate ecologically sensitive and
6 hazardous areas and to protect those areas and their functions and values
7 within Shoreline Jurisdiction. These regulations are intended to:

- 8 a. Implement the Town Comprehensive Plan (as amended) and comply
9 with the requirements of the Shoreline Management Act;
- 10 b. Protect critical areas through the application of the most current,
11 accurate, and complete scientific or technical information available as
12 determined according to WAC 173-26-201(2)(a), and in consultation
13 with state and federal agencies and other qualified professionals;
- 14 c. Protect the general public, resources (including cultural and historic
15 resources), and facilities from injury, loss of life, property damage, or
16 financial loss due to erosion, landslides, pollution, steep slope failure,
17 ground shaking or seismic activity;
- 18 d. Protect the general public, resources, and facilities from injury, loss of
19 life, property damage, or financial loss due to inundation of frequently
20 flooded areas;
- 21 e. Protect unique, fragile and valuable elements of the environment,
22 including ground and surface waters, wetlands, and fish and wildlife
23 and their habitats;
- 24 f. Prevent cumulative adverse environmental impacts to water quality
25 and availability, wetlands, and fish and wildlife habitat.

26 C. Designation of Critical Areas

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

31 2. The incorporated area of the Town is hereby divided into the following critical
32 areas, where appropriate:

- 33 a. Wetlands
- 34 b. Critical Aquifer Recharge Areas
- 35 c. Fish and Wildlife Habitat Conservation Areas
- 36 d. Geologically Hazardous Areas
- 37 e. Frequently Flooded Areas

38 D. Data Maps

1. The data maps maintained by the Town shall be used as a general guide to determine the location and extent of critical areas within the corporate limits. The data maps shall be consulted when a development application is received to determine if the site is within any areas shown as resource lands or critical areas. The data maps are for reference only and not regulatory in nature. It shall be the responsibility of the applicant to notify the Town of any critical areas which are on or near the site of the development application. The exact location of critical areas shall be determined by a site analysis conducted by a qualified professional using the requirements found within this chapter.

E. Interpretation of Data Maps

1. The Shoreline Administrator is charged with administration of this title for the purpose of interpreting data maps. An affected property owner or other party with standing has a right to appeal the Shoreline Administrator's determination according to the provisions of Section 14.19.710, Appeals.
2. All development applications are required to show the boundary(ies) of all resource lands and critical areas on a scaled drawing prior to the development application being considered complete for processing purposes.
3. Maps and reference documents in the Grant County SMP Inventory, Analysis, and Characterization report, as applicable.

F. Applicability

1. This chapter applies to all real property within the shoreline jurisdiction of the corporate limits of Krupp, Washington, as it is now configured or may, from time to time, be altered.
2. These critical areas regulations shall apply to critical areas located within the shoreline jurisdiction.
3. No action shall be taken by any person or entity that results in any alteration of any critical area located within the shoreline jurisdiction except as consistent with the purposes, objectives and intent of these regulations.
4. Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area.
5. These regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to these regulations shall be included in the SEPA review and threshold determination.

G. Exemptions

1. The activities listed below are exempt from the provisions of this chapter. Exempt activities shall be conducted using all reasonable methods to avoid impacts to critical areas. The decision to declare an activity exempt shall be an Administrative Decision, as set forth in Section 14.19.400 (L). Exemption from the chapter shall not be considered permission to degrade a critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a

1 critical area that is not a necessary outcome of the exempted activity shall be
2 repaired at the responsible party's expense.

- 3 a. Emergency modification or construction necessary to protect life or
4 real property from immediate damage by natural hazards innate to
5 critical areas. An emergency is an unanticipated event or occurrence
6 which poses an imminent threat to public health, safety, or the
7 environment, and which requires immediate action within a time too
8 short to allow full compliance. Once the threat to the public health,
9 safety, or the environment has dissipated, the actions undertaken as a
10 result of the previous emergency shall be subject to and brought into
11 full compliance with these regulations;
- 12 b. Normal maintenance or repair of existing buildings, structures, roads,
13 utilities, levees, or drainage systems, provided the activity does not
14 further alter, encroach upon, or increase impacts to critical areas or
15 associated buffers;
- 16 c. Existing agricultural activities normal or necessary to general farming
17 conducted according to industry-recognized best management
18 practices, including the raising of crops or the grazing of livestock;
- 19 d. Site investigative work necessary for land use application submittals
20 such as surveys, soil logs, percolation tests and other related activities.
21 In every case, impacts to critical areas shall be minimized and areas
22 disturbed by such activity shall be immediately restored as directed by
23 the Shoreline Administrator to ensure no loss of functions and values;
24 and
- 25 e. Passive recreational activities, including, but not limited to: fishing,
26 bird watching, hiking, hunting, boating, horseback riding, skiing,
27 swimming, canoeing, and bicycling; provided the activity does not
28 alter the critical area or its buffer by changing drainage patterns,
29 topography, water conditions or water sources.

30 H. Permitting

- 31 1. All applications for permits to conduct activities having a possible significant
32 impact on critical areas that are located on or near a project site must identify
33 the areas affected and make an estimate of the probable impact. The Town
34 shall deny all requests for permits which would result in a net loss of
35 ecological functions, those activities degrading a wetland or fish and/or
36 wildlife habitat conservation area, which would put people or property in a
37 position of unacceptable risk with respect to floods or geologic hazards, which
38 would tend to aggravate geologic hazards, or which would harm critical
39 recharging areas for aquifers. The Town may, however, grant permits which
40 include mitigation measures if the mitigation measures adequately protect the
41 ecological processes and functions of the critical area and people involved. In
42 granting a permit that includes mitigation measures, the most current,
43 accurate, and complete scientific or technical information available, which

1 shall be determined utilizing the criteria set out in WAC 173-26-201(2)(a),
2 shall be used to develop and approve the mitigation measures (Section
3 14.19.410).

4 I. Determination

- 5 1. Each development permit shall be reviewed to determine if the proposal is
6 within a critical area or critical area buffer. Town staff shall use maps and data
7 maintained by the Town and a site inspection if appropriate.
- 8 2. If it is determined that a critical area(s) is present additional assessments
9 prepared by a qualified biologist best suited for the type of identified critical
10 area(s) may be required.
- 11 3. In cases related to geohazards, the assessment shall include a description of
12 the geology of the site and the proposed development; an assessment of the
13 potential impact the project may have on the geologic hazard; an assessment
14 of what potential impact the geologic hazard may have on the project;
15 appropriate mitigation measures, if any; a conclusion as to whether further
16 analysis is necessary; and be signed by and bear the seal of the engineer or
17 geologist that prepared it.
- 18 4. When a geotechnical report is required it shall include a certification from the
19 engineer preparing the report, including the engineer's professional stamp and
20 signature, stating all of the following:
- 21 a. The risk of damage from the project, both on- and off- site;
- 22 b. The project will not materially increase the risk of occurrence of the
23 hazard; and
- 24 c. The specific measures incorporated into the design and operational
25 plan of the project to eliminate or reduce the risk of damage due to the
26 hazard.
- 27 5. All mitigation measures, construction techniques, recommendations, and
28 technical specifications provided in the geotechnical report shall be applied
29 during the implementation of the proposal. The engineer of record shall
30 submit sealed verification at the conclusion of construction that development
31 occurred in conformance with the approved plans.
- 32 6. A proposed development cannot be approved if it is determined by the
33 geotechnical report that either the proposed development or adjacent
34 properties will be at risk of damage from the geologic hazard, or that the
35 project will increase the risk of occurrence of the hazard, and there are no
36 adequate mitigation measures to alleviate the risks.

37 J. Critical Areas Review Process

- 38 1. All land use and building permits shall require that applicants disclose
39 activities within one hundred (100) feet of a known or suspected critical area.
40 The provisions of this chapter shall apply to any such proposals. The review
41 process shall proceed as follows:

- 1 a. Pre-application meeting/site visit. Upon receiving a land use or
2 development proposal, the Shoreline Administrator shall schedule a
3 pre-application meeting and/or site visit with the proponent. The
4 purpose is to decide whether the proposal is likely to affect the
5 ecological functions of critical areas or pose health and safety hazards.
6 At the meeting, the Shoreline Administrator will:
 - 7 i. Provide the applicant with the requirements of this chapter and
8 other applicable local regulations, including but not limited to
9 comprehensive plans, zoning maps, and overlays;
 - 10 ii. Review critical areas maps and other available reference
11 materials with the applicant;
 - 12 iii. Outline the review and permitting processes;
 - 13 iv. Work with the applicant to identify any potential concerns with
14 regards to critical areas;
 - 15 v. Provide the applicant with the necessary application materials
16 and SEPA checklist form.
- 17 2. Exemption Determination
- 18 3. Agency Consultation
 - 19 a. Because species populations and habitat systems are dynamic, agency
20 consultation shall be required where activities are proposed within one
21 hundred (100) feet of a designated Fish and Wildlife Habitat
22 Conservation Area. The Shoreline Administrator shall consult with
23 WDFW to determine the value of the site to priority habitats and
24 species.
 - 25 b. Because site specific mapping has not been completed for many
26 critical areas within the Town, staff may undertake agency
27 consultation in any instance in which activities are proposed within
28 one hundred (100) feet of a known or suspected critical area.
- 29 4. Application and SEPA Checklist
 - 30 a. The applicant shall submit all relevant land use/development
31 applications.
 - 32 b. The applicant shall submit a completed SEPA Checklist, except in the
33 following cases:
 - 34 i. The use or activity has been found to be exempt from the
35 provisions of these regulations, as described under the heading
36 “Exemptions” above; or
 - 37 ii. The use or activity is categorically exempt from SEPA review.
- 38 5. Determination of Need for Critical Areas Report: Based upon the pre-
39 application meeting, application materials, SEPA Checklist, and in the case of
40 Fish and Wildlife Habitat Conservation Areas, the outcome of the agency

1 consultation, the Shoreline Administrator shall determine if there is cause to
2 require a critical areas report. In addition, the Shoreline Administrator may
3 use critical areas maps and reference materials, information and scientific
4 opinions from appropriate agencies, or any reasonable evidence regarding the
5 existence of critical area(s) on or adjacent to the site of the proposed activity.
6 The determination of need for a critical areas report shall be an Administrative
7 Decision, as set forth in Section 14.19.400 (L), of these regulations.

- 8 6. Documentation and Notification: The Shoreline Administrator shall document
9 the pre-application meeting and/or site visit, application and SEPA threshold
10 determination, and any other steps or findings (including, in the case of Fish
11 and Wildlife Habitat Conservation Areas, the agency consultation) used to
12 decide whether a critical areas report shall be required. The applicant shall
13 receive notice of the determination and any findings that support it.

14 K. Critical Areas Report

- 15 1. If the Shoreline Administrator determines that the site of a proposed
16 development includes, is likely to include, or is adjacent to one or more
17 critical areas, a critical areas report may be required. When required, the
18 expense of preparing the critical areas report shall be borne by the applicant.
19 The content, format and extent of the critical areas report shall be approved by
20 the Shoreline Administrator.
- 21 2. The requirement for critical areas reports may be waived by the Shoreline
22 Administrator if there is substantial evidence that:
- 23 a. There will be no alteration of the critical area(s) and/or the required
24 buffer(s); and
 - 25 b. The proposal will not impact the critical area(s) in a manner contrary
26 to the purpose, intent and requirements of this ordinance and the
27 Town's comprehensive plan; and,
 - 28 c. The minimum standards of this chapter will be met.
- 29 3. No critical areas report is required for proposals that are exempt from the
30 provisions of this chapter as set forth under Section 14.19.640, Exemptions,
31 herein.
- 32 4. Every critical area report shall be completed by a qualified professional who is
33 knowledgeable about the specific critical area(s) in question, and approved by
34 the Shoreline Administrator.
- 35 5. At a minimum, a required critical areas report shall contain the following
36 information:
- 37 a. Applicant's name and contact information; permits being sought, and
38 description of the proposal;
 - 39 b. A copy of the site plan for the development proposal, drawn to scale
40 and showing:

1 prior to acceptance by the Town. Agency review should be completed within
2 90 (ninety) days of submittal to agency staff.

3 M. Surety/Bonding

- 4 1. If a development proposal is subject to mitigation, maintenance or monitoring
5 plans, the Town, in a form acceptable to the Town Attorney, may require an
6 assurance device or surety.
- 7 2. When mitigation required pursuant to a development proposal is not
8 completed prior to the Town final permit approval, such as final plat approval
9 or final building inspection, the Town shall require the applicant to post a
10 performance bond or other security in a form and amount deemed acceptable
11 by the Town. If the development proposal is subject to mitigation, the
12 applicant shall post a mitigation bond or other security in a form and amount
13 deemed acceptable by the Town to ensure mitigation is fully functional.
- 14 3. The bond shall be in the amount of 125 percent of the estimated cost of the
15 uncompleted actions or the estimated cost of restoring the functions and
16 values of the critical area that are at risk, whichever is greater, and the cost of
17 maintenance and monitoring for a 10-year period.
- 18 4. The bond shall be in the form of an assignment of savings account, or an
19 irrevocable letter of credit guaranteed by an acceptable financial institution
20 with terms and conditions acceptable to the Town attorney or other method
21 acceptable to the Shoreline Administrator.
- 22 5. Bonds or other security authorized by this section shall remain in effect until
23 the Town determines, in writing, that the standards bonded for have been met.
24 Bonds or other security shall be held by the Town for a minimum of 10 years
25 to ensure that the required mitigation has been fully implemented and
26 demonstrated to function, and may be held for longer periods when necessary.
- 27 6. Depletion, failure, or collection of bond funds shall not discharge the
28 obligation of an applicant or violator to complete required mitigation,
29 maintenance, monitoring, or restoration.

30 N. Appeals

- 31 1. Any decision of the Shoreline chapter may be appealed according to the
32 provisions of Section 14.19.710, Appeals. Such appeal shall be in writing and
33 must be submitted to the Town within ten days from the date of the decision.

34 **14.19.410 General Performance Standards**

- 35 A. The following general performance standards shall apply to activities permitted with
36 in critical areas or critical area buffers located within the shoreline jurisdiction.
37 Additional standards may be necessary based on site specific considerations or
38 proposed development impacts.
- 39 B. General Performance Standards

- 1 1. Areas of new permanent disturbance and all areas of temporary disturbance
2 shall be mitigated and/or restored pursuant to a mitigation and restoration
3 plan.
- 4 2. Mitigation, when allowed, shall ensure that development activity does not
5 yield a net loss of the area or function of the critical areas.
- 6 3. Mitigation Sequencing. Mitigation plans shall include a discussion of
7 mitigation alternatives (sequencing) as they relate to:
 - 8 a. Avoiding the impact altogether by not taking a certain action or parts
9 of an action;
 - 10 b. Minimizing impacts by limiting the degree or magnitude of the actions
11 and its implementation, by using appropriate technology, or by taking
12 affirmative steps to avoid or reduce impacts;
 - 13 c. Rectifying the impact by repairing, rehabilitating, or restoring the
14 affected environment;
 - 15 d. Reducing or eliminating the impact over time by preservation and
16 maintenance operations during the life of the action;
 - 17 e. Compensating for the impact by replacing, enhancing, or providing
18 substitute resources or environments; and/or
 - 19 f. Monitoring the impact and taking appropriate corrective measures.
- 20 4. Mitigation Plan. When mitigation is required, the applicant shall submit for
21 approval of a mitigation plan as part of the critical area report. The mitigation
22 plan shall include:
 - 23 a. A written report identifying mitigation objectives, including:
 - 24 i. A description of the anticipated impacts to the critical areas and
25 the mitigating actions proposed and the purposes of the
26 compensation measures, including the site selection criteria;
27 identification of compensation objectives; identification of
28 critical area functions and values; and dates for beginning and
29 completion of site compensation construction activities;
 - 30 ii. A review of the most current, accurate, and complete scientific
31 or technical information available supporting the proposed
32 mitigation and a description of the report authors experience to
33 date in critical areas mitigation; and
 - 34 iii. An analysis of the likelihood of success of the compensation
35 project.
 - 36 b. Measurable criteria for evaluating whether or not the objectives of the
37 mitigation plan have been successfully attained and whether or not the
38 requirements of this chapter have been met.
 - 39 c. Written specifications and descriptions of the mitigation proposed,
40 including, but not limited to:

- 1 i. The proposed construction sequence, timing, and duration;
- 2 ii. Grading and excavation details;
- 3 iii. Erosion and sediment control features;
- 4 iv. A planting plan specifying plant species, quantities, locations,
- 5 size, spacing, and density; and
- 6 v. Measures to protect and maintain plants until established.
- 7 d. A program for monitoring construction of the compensation project,
- 8 and for assessing the completed project and its effectiveness over time.
- 9 The program shall include a schedule for site monitoring and methods
- 10 to be used in evaluating whether performance standards are being met.
- 11 A monitoring report shall be submitted as needed to document
- 12 milestones, successes, problems, and contingency actions of the
- 13 compensation project. The compensation project shall be monitored
- 14 for a period necessary to establish that performance standards have
- 15 been met, but not for a period less than 10 years.
- 16 e. Identify potential courses of action, and any corrective measures to be
- 17 taken if monitoring or evaluation indicates project performance
- 18 standards are not being met.
- 19 5. Mitigation, maintenance, monitoring and contingency plans shall be
- 20 implemented by the developer to protect critical areas and their buffers prior
- 21 to the commencement of any development activities. Where mitigation is
- 22 required herein, the following performance standards shall be met:
- 23 a. Mitigation planting survival will be one hundred percent for the first
- 24 year, and eighty percent for each of the four years following.
- 25 b. Mitigation must be installed no later than the next growing season
- 26 after completion of site improvements, unless otherwise approved by
- 27 the Shoreline Administrator.
- 28 c. Where necessary, a permanent means of irrigation shall be installed for
- 29 the mitigation plantings that are designed by a landscape architect or
- 30 equivalent professional, as approved by the Shoreline Administrator.
- 31 The design shall meet the specific needs of the vegetation, as may be
- 32 applicable.
- 33 d. Onsite monitoring and monitoring reports shall be submitted to the
- 34 Town one year after mitigation installation; three years after mitigation
- 35 installation; and five years after mitigation installation. The length of
- 36 time involved in monitoring and monitoring reports may be increased
- 37 by the Shoreline Administrator for a development project on a case-
- 38 by- case basis when longer monitoring time is necessary to establish or
- 39 re-establish functions and values of the mitigation site. Monitoring
- 40 reports shall be submitted by a qualified professional biologist. The

- 1 biologist must verify that the conditions of approval and provisions in
2 the wetland management and mitigation plan have been satisfied
- 3 e. Monitoring reports by the biologist must include verification that the
4 planting areas have less than twenty percent total non-native /invasive
5 plant cover consisting of exotic and/or invasive species. Exotic and
6 invasive species may include any species on the state noxious weed
7 list, or considered a noxious or problem weed by the Grant County
8 Noxious Weed Board, local conservation districts, or other applicable
9 agencies.
- 10 f. Mitigation sites shall be maintained to ensure that the mitigation and
11 management plan objectives are successful. Maintenance shall include
12 corrective actions to rectify problems, include rigorous, as-needed
13 elimination of undesirable plants; protection of shrubs and small trees
14 from competition by grasses and herbaceous plants, and repair and
15 replacement of any dead plants.
- 16 g. Prior to site development and or building permit issuance, a
17 performance surety agreement shall be submitted by the applicant and
18 shall be reviewed and approved by the Town, including the town
19 attorney. The surety agreement must include the complete costs for the
20 mitigation and monitoring which may include but not be limited to: the
21 cost of installation, delivery, plant material, soil amendments,
22 permanent irrigation, seed mix, and three monitoring visits and reports
23 by a qualified professional biologist, including Washington state sales
24 tax. The Town must approve the quote for said improvements.
- 25 h. Sequential release of funds associated with the surety agreement shall
26 be reviewed for conformance with the conditions of approval and the
27 mitigation and management plan. Release of funds may occur in
28 increments of one-third for substantial conformance with the plan and
29 conditions of approval. If the standards that are not met are only
30 minimally out of compliance and contingency actions are actively
31 being pursued by the property owner to bring the project into
32 compliance, the Town may choose to consider a partial release of the
33 scheduled increment. Non-compliance can result in one or more of the
34 following actions: carry-over of the surety amount to the next review
35 period; use of funds to remedy the nonconformance; scheduling a
36 hearing with the appropriate hearing body to review conformance with
37 the conditions of approval and to determine what actions may be
38 appropriate.
- 39 C. Trails and Trail-related Facilities
- 40 1. Construction of commercial, public and private trails, and trail-related
41 facilities, such as picnic tables, benches, interpretive centers and signs,
42 viewing platforms and campsites may be authorized within designated
43 resource lands and critical areas, subject to the following minimum standards:

- 1 a. Trail facilities shall, to the extent feasible, be placed on existing road
2 grades, utility corridors, or any other previously disturbed areas.
- 3 b. Trail facilities shall minimize the removal of trees, shrubs, snags and
4 important habitat features. Vegetation management performed in
5 accordance with best management practices as part of ongoing
6 maintenance to eliminate a hazard to trail users is considered
7 consistent with this standard.
- 8 c. Viewing platforms, interpretive centers, campsites, picnic areas,
9 benches and their associated access shall be designed and located to
10 minimize disturbance of wildlife and/or critical characteristics of the
11 affected conservation area.
- 12 d. All facilities shall be constructed with materials complementary to the
13 surrounding environment.
- 14 e. Trail facilities that parallel the shoreline may be located in the outer
15 twenty five percent of the buffer area;
 - 16 i. Commercial and public trails shall not exceed ten feet in width.
 - 17 ii. Private trails shall not exceed four feet in width.
- 18 f. Trails that provide direct shoreline access shall not exceed four feet in
19 width and shall be kept to the minimum number necessary to serve the
20 intended purpose.
- 21 g. Review and analysis of a proposed trail facility shall demonstrate no
22 net loss of ecological functions and values in conformance with this
23 chapter.
- 24 h. Trail facilities shall not be exempt from special report requirements, as
25 may be required by this chapter.

26 **14.19.420 Wetlands**

27 A. Designation

- 28 1. Wetlands are those areas, designated based on the definitions, methods and
29 standards set forth in the currently approved Federal Wetland Delineation
30 Manual and supplements. All areas within the Town meeting the wetland
31 designation criteria in the Delineation Manual and supplements are hereby
32 designated critical areas and are subject to the provisions of this Chapter.
- 33 2. Wetlands shall be rated according to the Washington State Department of
34 Ecology wetland rating system found in the Washington State Wetlands
35 Rating System for Eastern Washington (Annotated Version), Washington
36 State Department of Ecology Publication No. #04-06-015, August 2004,
37 Annotated March 2007; or as revised by Ecology. Other references for
38 guidance and mitigations include Wetland Mitigation in Washington State –
39 Parts 1 and 2, Washington Department of Ecology Publication #06-06-011a
40 and b), March 2006), Wetlands in Washington State- Volume 1: A Synthesis
41 of the Science. Washington State Department of Ecology. Publication #05-06-

006; and Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008.

B. Classification

1. Wetland Rating Classes shall be as follows:

- a. Category I Wetlands: Those wetlands scoring a “Category I” rating under the Washington State Department of Ecology (Ecology) Washington State Wetlands Rating System for Eastern Washington (Annotated Version), Publication #04-06-015, August 2004, Annotated March 2007, as may be amended in the future (hereinafter referred to as the Ecology Wetlands Rating System);
- b. Category II Wetlands: Those wetlands scoring a “Category II” rating under the Ecology Wetlands Rating System;
- c. Category III Wetlands: Those wetlands scoring a “Category III” rating under the Ecology Wetlands Rating System; and
- d. Category IV Wetlands: Those wetlands scoring a “Category IV” rating under the Ecology Wetlands Rating System.

C. Development Standards

- 1. Lights shall be directed away from the wetland.
- 2. Activities that generate noise shall be located away from the wetland, or noise impacts shall be minimized through design or insulation techniques.
- 3. Toxic runoff from new impervious surface area shall be directed away from wetlands.
- 4. Treated storm water runoff may be allowed into wetland buffers. Channelized flow should be prevented.
- 5. Use of pesticides, insecticides, and fertilizers within one hundred fifty feet of wetland boundary shall be limited and follow Best Management Practices (BMPs).
- 6. The outer edge of the wetland buffer shall be planted with dense native vegetation and/or fencing to limit pet and human disturbance.
- 7. 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.

1 **Table 14.19.420 (C)(7)-1. Land Use Intensity Table: Types of Proposed Land Use**

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> • Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre) • High-intensity recreation (golf courses, ball fields, etc.)
Moderate	<ul style="list-style-type: none"> • Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Paved driveways and gravel driveways serving 3 or more residences • Paved trails
Low	<ul style="list-style-type: none"> • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Timber management • Gravel driveways serving 2 or fewer residences • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management.

2

3

Table 14.19.420 (C)(7)-2. Buffer Widths

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
<i>Category IV Wetlands (For wetlands scoring less than 30 points or more for all functions)</i>		
Score for all 3 basic functions is less than 30 points	Low – 25 ft Moderate – 40 ft High – 50 ft	No recommendations at this time
<i>Category III Wetlands (For wetlands scoring 30-50 points or more for all functions)</i>		
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
Not meeting above characteristic	Low – 40 ft Moderate – 60 ft High – 80 ft	No recommendations at this time
<i>Category II Wetlands (For wetlands that score 51-69 points or more for all functions or having the "Special Characteristics" identified in the rating system)</i>		
High level of function for habitat (score for habitat 29-36 points)	Low – 100 ft Moderate – 150 ft High – 200 ft ²	Maintain connections to other habitat areas.

Wetland Characteristics	Buffer Width by Impact of Proposed Land Use	Other Measures Recommended for Protection
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75 ft Moderate – 110 ft High – 150 ft	No recommendations at this time
High level of function for water quality improvement and low for habitat (score for water quality 24-32 points; habitat less than 20 points)	Low – 50 ft Moderate – 75 ft High – 100 ft	No additional surface discharges of untreated runoff
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 subbasin scale Other protection based on needs to protect habitat and/or water quality functions
Not meeting above characteristic	Low – 50 ft Moderate – 75 ft High – 100 ft	No recommendations at this time
<i>Category I Wetlands (For wetlands that score 70 points or more for all functions or having the “Special Characteristics” identified in the rating system)</i>		
Natural Heritage Wetlands	Low – 125 ft Moderate – 190 ft High – 250 ft	No additional surface discharges to wetland or its tributaries. No septic systems within 300 ft of wetland. Restore degraded parts of buffer.
High level of function for habitat (score for habitat 29-36 points)	Low – 100 ft Moderate – 150 ft High – 200 ft	Restore degraded parts of buffer. Maintain connections to other habitat areas
Moderate level of function for habitat (score for habitat 20-28 points)	Low – 75ft Moderate – 110ft High – 150 ft	No recommendations at this time
High level of function for water quality improvement (24-32 points) and low for habitat (less than 20 points)	Low – 50 ft Moderate – 75 ft High – 100 ft	No additional surface discharges of untreated runoff
Not meeting above characteristics	Low – 50 ft Moderate – 75 ft High – 100 ft	No recommendations at this time

- 1 8. Wetland buffer zones shall be retained in their natural condition. Where buffer
2 disturbances are unavoidable during adjacent construction, re-vegetation with
3 native plan materials will be required.

- 1 9. Standard buffer widths may be modified by the review authority for a
 2 development proposal by averaging buffer widths based on a report submitted
 3 by the applicant and prepared by a qualified professional approved by the
 4 Shoreline Administrator (e.g. wetland biologist), and shall only be allowed
 5 where the applicant demonstrates all of the following:
- 6 a. Averaging is necessary to avoid an extraordinary hardship to the
 7 applicant caused by circumstances peculiar to the property;
- 8 b. The designated wetland contains variations in sensitivity due to
 9 existing physical characteristics;
- 10 c. The width averaging will not adversely impact the designated
 11 wetland’s functional value;
- 12 d. The total area contained within the buffer after averaging is no less
 13 than that contained within the standard buffer prior to averaging.
- 14 e. The buffer at its narrowest point is never less than three-quarters of the
 15 required width.
- 16 10. Mitigation ratios shall be used when impacts to wetlands cannot be avoided.
 17 The mitigation ratios by wetland type are an area replacement ratio of:

Table 14.19.420 (C)(10). Mitigation ratios for eastern Washington

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Forested	4:1	8:1	1:1 R/C and 4:1 RH	1:1 R/C and 6:1 E	16:1
Category II Vernal Pool	2:1 Compensation must be seasonally ponded wetland	4:1 Compensation must be seasonally ponded wetland	1:1 R/C and 2:1 RH	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural	Not considered possible ²	6:1 Rehabilitation	R/C Not considered	R/C Not considered possible ²	Case-by-base

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only ¹	Re-establishment or Creation (R/C) and Rehabilitation (RH) ¹	Re-establishment or Creation (R/C) and Enhancement (E) ¹	Enhancement Only ¹
Heritage site		of a Natural Heritage site	possible ²		
Category I Alkali	Not considered possible ²	6:1 Rehabilitation of an alkali wetland	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case
Category I Bog	Not considered possible ²	6:1 Rehabilitation of a bog	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-case

¹ These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

² Natural Heritage sites, alkali wetland, and bogs are considered irreplaceable wetlands because they perform some functions that cannot be replaced through compensatory mitigation. Impacts to such wetlands would therefore result in a net loss of some functions no matter what kind of compensation is proposed.

Reference:

Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1). Washington State Department of Ecology Publication #06-06-011a. Olympia, WA.

11. Wetland Management and Mitigation Plan

- a. Except as provided for by this chapter, a wetland management and mitigation plan shall be required when impacts associated with development within a wetland or wetland buffer are unavoidable, demonstrated by compliance with this Section and Section 14.19.410, General Performance Standards.
- b. Wetland management and mitigation plans shall be prepared by a qualified professional biologist who is knowledgeable of wetland conditions within North Central Washington.
- c. In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the watershed or sub-basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.
- d. The wetland management and mitigation plan shall demonstrate, when implemented, that there shall be no net loss of the ecological functions of the wetland and buffer area.

12. Water dependent uses, as defined in this Chapter, may be located within a wetland or wetland buffer when the applicant or property owner can

- 1 demonstrate compliance with Section 14.19.410, General Performance
2 Standards.
- 3 a. Developments authorized within a wetland buffer shall comply with
4 the following minimum standards:
- 5 i. Designated wetlands and their associated buffers shall be
6 delineated and disclosed on final plats, maps, documents, etc.,
7 as critical area tracts, non-buildable lots, buffer areas or
8 common areas. Ownership and control may be transferred to a
9 homeowner's association or designated as an easement or
10 covenant encumbering the property.
- 11 ii. All lots within a major subdivision, short plat or binding site
12 plan shall have the outer edge of all required buffers clearly
13 marked on site with permanent buffer edge markers. Buffer
14 markers may be either buffer signs or steel posts painted with a
15 standard color and label, as approved by the Shoreline
16 Administrator. The markers shall be field verified by the
17 surveyor or biologist of record prior to final plat approval.
18 Each lot shall contain a minimum of three buffer area markers
19 located at the landward edge of the buffer perimeter for each
20 habitat type; one located at each side property line and one
21 midway between side property lines. Covenants for the
22 subdivision shall incorporate a requirement stating that buffer
23 area markers shall not be removed, or relocated, except as a
24 may be approved by the Shoreline Administrator.
- 25 13. The following activities are allowed to occur in wetlands and wetland buffer
26 zones subject to conditioning with appropriate best management practices to
27 minimize impacts on the functions and values of wetlands:
- 28 a. Outdoor recreational activities;
- 29 b. Existing and ongoing agricultural activities;
- 30 c. Maintenance of existing facilities, structures, ditches, roads and utility
31 systems.
- 32 14. Storm water management facilities shall be allowed within the outer 25% of a
33 wetland buffer around Category III or IV wetlands, provided that no other
34 location is feasible and that the location of such facilities will not degrade the
35 functions of the wetland or its buffer. All projects shall comply with the
36 applicable federal, state and local regulations regarding the species
- 37 15. As a condition of any permit or authorization pursuant to these regulations,
38 the Shoreline Administrator may require temporary or permanent signs and/or
39 fencing along the perimeter of a wetland or buffer in order to protect the
40 functions and values of the wetland, or to minimize future impacts or
41 encroachment upon the wetland or buffer.

- 1 16. Wetland alteration proposals shall be approved only if no alternative is
2 available. If alteration is unavoidable, all adverse impacts shall be mitigated
3 as set forth in an approved Critical Areas Report and mitigation plan.
- 4 17. When feasible, mitigation shall be on-site and sufficient to maintain the
5 functions and values of the wetland and buffer areas. If on-site mitigation is
6 not feasible, then the applicant shall demonstrate that the mitigation site is the
7 nearest that can reasonably achieve the goals of mitigation with a high
8 likelihood of success.
- 9 18. As determined through the site-specific study, mitigation measures shall be
10 implemented that maintain the functions and values found in the particular
11 wetland.
- 12 19. As determined through the site-specific study, appropriate mitigation,
13 management and monitoring plan(s) shall be developed and implemented,
14 with any necessary surety to ensure compliance with such plan(s) being
15 provided as described herein above.
- 16 20. A use or structure established prior to the effective date of the ordinance
17 codified in this chapter which does not conform to standards set forth herein is
18 allowed to continue and be reasonably maintained; provided, that such activity
19 or structure shall not be expanded or enlarged in any manner that increases the
20 extent of its nonconformity.

21 **14.19.430 Critical Aquifer Recharge Area**

22 A. Classification

- 23 1. Critical potential: Wellhead protection areas, streams, wetlands, and any other
24 lands that have been specifically identified as critical recharge areas based on
25 reliable scientific data.
- 26 2. High potential: Areas in which soils show permeability ratings of more than
27 20 inches per hour.

28 B. Development Standards

- 29 1. Development activities within an aquifer recharge area shall be designed,
30 developed and operated in a manner that will not potentially degrade
31 groundwater resources nor adversely affect the recharging of the aquifer.
- 32 2. All new development shall comply with the following requirements:
 - 33 a. Applicable water source protection regulations set forth by the United
34 States Environmental Protection Agency, the Washington State
35 Department of Ecology, the Washington State Department of Health,
36 or the Grant County Health District.
 - 37 b. Applicable ground water management area (GWMA) regulations;
 - 38 c. Applicable regulations set forth by any Irrigation Districts regulated by
39 the United States Department of Interior, Bureau of Reclamation
40 (BOR).

- 1 1. In addition to the general requirements for Critical Areas Reports, a Critical
2 Areas Report for development activities within or adjacent to an aquifer
3 recharge area shall contain the following:
 - 4 a. A scaled development plan showing the recharge areas;
 - 5 b. Detailed information on the following items:
 - 6 i. Hydrogeological susceptibility to contamination and
7 contaminant loading potential;
 - 8 ii. Depth to ground water;
 - 9 iii. Hydraulic conductivity and gradient;
 - 10 iv. Soil texture, permeability, and contaminant attenuation
11 potential.
 - 12 c. Vadose zone analysis, including implications of permeability and
13 attenuation properties;
 - 14 d. An analysis of the recharge area's toleration for impervious surfaces in
15 terms both of aquifer recharge and the effect on water quality; and
 - 16 e. A summary of the proposed development's effect on the recharge area.
- 17 2. When a proposed use presents a high risk of drinking water contamination, a
18 hydrogeologic assessment shall be required.
 - 19 a. A hydrogeologic assessment shall be required for the following land
20 uses:
 - 21 i. Hazardous substance processing and handling.
 - 22 ii. Hazardous waste treatment and storage facility.
 - 23 iii. Wastewater treatment plant sludge disposal.
 - 24 iv. Solid waste disposal facility.
 - 25 b. A required hydrogeologic assessment shall be submitted by a
26 hydrogeologist licensed by the state of Washington. The
27 hydrogeologic assessment shall use scientifically valid methods and
28 studies to establish existing (baseline) water quality and shall be used
29 to develop conditions of approval to ensure that the proposed
30 development will not contribute contaminants or facilitate degradation
31 of recharge areas. In addition to the information required in all critical
32 areas reports, the assessment shall include, at a minimum:
 - 33 i. Pertinent well log and geologic data.
 - 34 ii. Ambient groundwater quality.
 - 35 iii. Groundwater elevation.
 - 36 iv. Recharge potential of facility site.

- 1 v. Current data on wells and any springs located within one
- 2 thousand feet (1,000') of the facility.
- 3 vi. Surface water location and potential recharge.
- 4 vii. Water supply source for the facility.
- 5 viii. Analysis and discussion of the effects of the proposed project
- 6 on the groundwater resource.
- 7 c. A required hydrogeologic assessment must demonstrate that the
- 8 proposed use does not present a threat of contamination to the aquifer
- 9 system. Successful demonstration of those findings warrants approval
- 10 under this section.
- 11 d. Ongoing monitoring of uses that present high risk of drinking water
- 12 contamination may be required to assess impacts of development
- 13 activities on groundwater resources.

14 **14.19.440 Fish and Wildlife Habitat Conservation Areas**

15 A. Classification

- 16 1. Fish and wildlife habitat conservation areas include those with the following
- 17 characteristics:
 - 18 a. Federally designated endangered, threatened and sensitive species.
 - 19 Areas with which federally designated endangered, threatened and
 - 20 sensitive species have a primary association. Federally designated
 - 21 endangered and threatened species are those fish and wildlife species
 - 22 identified by the U.S. Fish and Wildlife Service and the National
 - 23 Marine Fisheries Service that are in danger of extinction or threatened
 - 24 to become endangered. The U.S. Fish and Wildlife Service and the
 - 25 National Marine Fisheries Service should be consulted for current
 - 26 listing status.
 - 27 b. State designated endangered, threatened and sensitive species. Areas
 - 28 with which state designated endangered, threatened and sensitive
 - 29 species have a primary association.
 - 30 c. State designated endangered, threatened, and sensitive species are
 - 31 those fish and wildlife species native to the state of Washington
 - 32 identified by the Washington Department of Fish and Wildlife, that are
 - 33 in danger of extinction, threatened to become endangered, vulnerable,
 - 34 or declining and are likely to become endangered or threatened in a
 - 35 significant portion of their range within the state without cooperative
 - 36 management or removal of threats. State designated endangered,
 - 37 threatened, and sensitive species are periodically recorded in WAC
 - 38 232-12-014 (state endangered species) and WAC 232-12-011 (state
 - 39 threatened and sensitive species). The state Department of Fish and
 - 40 Wildlife maintains the most current listing and should be consulted for
 - 41 current listing status.

- 1 d. State Priority Habitats and Areas Associated With State Priority
2 Species. Priority habitats and species are considered to be priorities for
3 conservation and management. Priority species require protective
4 measures for their perpetuation due to their population status,
5 sensitivity to habitat alteration, and/or recreational, commercial, or
6 tribal importance. Priority habitats are those habitat types or elements
7 with unique or significant value to a diverse assemblage of species. A
8 priority habitat may consist of a unique vegetation type or dominant
9 plant species, a described successional stage, or a specific structural
10 element. Priority habitats and species are identified by the state
11 Department of Fish and Wildlife.
- 12 e. Habitats and Species of Local Importance. Habitats and species of
13 local importance are those identified by the Town, including but not
14 limited to those habitats and species that, due to their population status
15 or sensitivity to habitat manipulation, warrant protection. Habitats may
16 include a seasonal range or habitat element with which a species has a
17 primary association, and which, if altered, may reduce the likelihood
18 that the species will maintain and reproduce over the long-term.
- 19 f. All areas within the town meeting the definition of one or more critical
20 areas defined above are hereby designated critical areas and are subject
21 to the provisions of this Chapter.

22 B. Development Standards

- 23 1. Flora (plant life) and Fauna (animal life) identified as protected, shall be
24 sheltered from construction activities using Best Management Practices.
- 25 2. Habitat conservation areas and buffers will be left undisturbed, unless the
26 development proposal demonstrates that impacts to the habitat conservation
27 area and/or buffer are unavoidable, demonstrated in a habitat management and
28 mitigation plan described in Section 14.19.440 (C).
- 29 3. Critical area reports for fish and wildlife habitat conservation areas shall
30 include a habitat assessment to evaluate the presence or absence of a potential
31 critical species or habitat.
- 32 4. The Washington State Department of Fish and Wildlife priority habitat and
33 species management recommendations shall be consulted in developing
34 specific measures to protect a specific project site.
- 35 5. All projects shall comply with the applicable federal, state and local
36 regulations regarding the species and habitats identified to be upon a site.
- 37 6. Establishment of Buffers. When needed to protect the functions and values of
38 habitat conservation areas, the Shoreline Administrator shall require the
39 establishment of buffer areas for activities in or adjacent to such areas. Buffers
40 shall consist of an undisturbed area of native vegetation, or areas identified for
41 restoration. Buffer widths shall reflect the sensitivity of the habitat and the

intensity of activity proposed, and shall be consistent with the management recommendations issued by the State Department of Fish and Wildlife.

7. As determined through the site-specific study, mitigation measures shall be implemented that maintain the base line populations and reproduction rates for the particular species.

8. As determined through the site-specific study, appropriate habitat conservation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described in this chapter.

9. Habitat Conservation Areas:

a. Development occurring within a one thousand foot radius of a state or federal threatened, endangered, or sensitive species den, nesting, or breeding site, migration corridors or feeding areas of terrestrial species shall require a habitat management and mitigation plan.

b. Cliff, cave and talus slope habitats shall have at least a fifty-foot buffer for safety and resource protection.

c. Bald Eagles: an approved bald eagle management plan by the Washington Department of Fish and Wildlife meeting the requirement and guidelines of the Bald Eagle Protection Rules, WAC 232-12-292, as amended, satisfies the requirements of a habitat management and/or mitigation plan.

d. Mule Deer Habitat: habitat connectivity and migration corridors for mule deer shall be considered in habitat management and/or mitigation plans.

e. Development in or over all surface waters shall require a habitat mitigation plan.

f. Riparian buffer for Crab Creek in the Town is as follows:

Table 14.19.440 (B)(9)(f). Riparian Buffer Width

Environment Designation	Riparian Buffer Width (Feet) ^{1,2}
Conservancy	75

¹ Measured from the OHWM or top of bank, as applicable

² Accompanied by other critical areas protections and stormwater management measures, as applicable

C. Fish/Wildlife Habitat Management and Mitigation Plan

1. A fish/wildlife habitat management and mitigation plan shall be prepared by a qualified professional biologist who is knowledgeable of fish and wildlife habitat within North Central Washington.

- 1 2. In determining the extent and type of mitigation appropriate for the
2 development, the plan shall evaluate the ecological processes that affect and
3 influence critical area structure and function within the water shed or sub-
4 basin; the individual and cumulative effects of the action upon the functions of
5 the critical area and associated watershed; and note observed or predicted
6 trends regarding specific wetland types in the watershed, in light of natural
7 and human processes.
- 8 3. The fish/wildlife habitat management and mitigation plan shall demonstrate,
9 when implemented, no net loss of ecological functions of the habitat
10 conservation area and buffer.
- 11 4. The fish/wildlife habitat management and mitigation plan shall identify how
12 impacts from the proposed project shall be mitigated, as well as the necessary
13 monitoring and contingency actions for the continued maintenance of the
14 habitat conservation area and any associated buffer.
- 15 5. Mitigation for development may include a sequenced combination of the
16 mitigation measures included in Section 14.19.410, General Performance
17 Standards, as needed to achieve the most effective protection or compensatory
18 mitigation for critical area functions.
- 19 6. Mitigation Ratios.
 - 20 a. Mitigation ratios shall be used when impacts to riparian areas, aquatic
21 habitat, and riparian buffers are unavoidable. Compensatory mitigation
22 shall restore, create, rehabilitate or enhance equivalent or greater
23 ecological functions. Mitigation shall be located onsite unless the
24 biologist can demonstrate, and the Town approves that onsite
25 mitigation will result in a net loss of ecological functions. If offsite
26 mitigation measures are determined to be appropriate, offsite
27 mitigation shall be located in the same watershed as the development
28 within Town.
 - 29 b. The onsite mitigation ratio shall be at a minimum area replacement
30 ratio of 1:1 for development within aquatic habitat, riparian areas and
31 riparian buffers. An area replacement ratio of 2:1 shall apply to native
32 vegetation removal within these areas. Mitigation for diverse, high
33 quality habitat or offsite mitigation may require a higher level of
34 mitigation. Mitigation and management plans shall evaluate the need
35 for a higher mitigation ratio on a site by site basis, dependent upon the
36 ecological functions and values provided by the habitat.
37 Recommendations by resource agencies in evaluating appropriate
38 mitigation shall be encouraged.

39 **14.19.450 Geologically Hazardous Areas**

40 A. Classification and Designation

- 41 1. Geologically hazardous areas include those with the following characteristics:

- 1 a. Erosion Hazard Areas. Erosion hazard areas are at least those areas
2 identified by the U.S. Department of Agriculture’s Natural Resources
3 Conservation Service as having a “moderate to severe,” “severe,” or
4 “very severe” rill and inter-rill erosion hazard. Erosion hazard areas
5 are also those areas impacted by shore land and/or stream bank erosion
6 and those areas within a river’s channel migration zone. Erosion
7 hazard areas are those that contain all three of the following
8 characteristics:
 - 9 i. A slope of 30 percent or greater;
 - 10 ii. Soils identified by the Soil Conservation Service as unstable
11 and having a high potential for erosion; and
 - 12 iii. Areas that are exposed to the erosion effects of wind or water.
- 13 b. Landslide Hazard Areas. Landslide hazard areas are areas potentially
14 subject to landslides based on a combination of geologic, topographic,
15 and hydrologic factors. They include areas susceptible because of any
16 combination of bedrock, soil, slope (gradient), slope aspect, structure,
17 hydrology, or other factors. Landslide hazard areas are those that may
18 contain any of the following circumstances:
 - 19 i. All areas that have historically been prone to landsliding;
 - 20 ii. All areas containing soil types identified by the Natural
21 Resource Conservation Service (NRCS) as unstable and prone
22 to landslide hazard;
 - 23 iii. All areas that show evidence of or are at risk from snow
24 avalanches; or
 - 25 iv. All areas that are potential unstable as a result of rapid stream
26 incision or stream bank erosion.
- 27 c. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe
28 risk of damage as a result of earthquake induced ground shaking, slope
29 failure, settlement, soil liquefaction, lateral spreading, or surface
30 faulting. Settlement and soil liquefaction conditions occur in areas
31 underlain by cohesionless, loose, or soft-saturated soils of low density,
32 typically in association with a shallow ground water table.
- 33 d. Mine Hazard Areas. Mine hazard areas are those areas underlain by or
34 affected by mine workings such as adits, gangways, tunnels, drifts, or
35 airshafts, and those areas of probable sink holes, gas releases, or
36 subsidence due to mine workings. Factors that should be considered
37 include: proximity to development, depth from ground surface to the
38 mine working, and geologic material.
- 39 e. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to
40 pyroclastic flows, lava flows, debris avalanche, and inundation by

1 debris flows, lahars, mudflows, or related flooding resulting from
2 volcanic activity.

3 f. Other Hazard Areas. Geologically hazardous areas shall also include
4 areas determined by the mayor to be susceptible to other geological
5 events including mass wasting, debris flows, rock falls, and differential
6 settlement.

7 g. Known geologically hazardous areas within the Town consist of
8 erosion hazard areas, including steep slopes. As more information is
9 obtained that demonstrates the existence of other types and/or areas of
10 geologically hazardous areas, these types and/or areas shall be
11 classified and protected in accordance with the provisions of this
12 chapter.

13 B. Development Standards

14 1. All projects shall be evaluated through a geotechnical report, completed by a
15 qualified professional with expertise in the particular hazard(s) present in a
16 given critical area, to determine whether the project is proposed to be located
17 in a geologically hazardous area, and if so, what is the project's potential
18 impact on the geologically hazardous area and the potential impact of the
19 geologic hazard on the proposed project;

20 2. All projects shall comply with the applicable federal, state and local
21 regulations, including the International Building Code;

22 3. Alterations of geologically hazardous areas or associated buffers may only
23 occur for activities that:

24 a. Will not increase the threat of the geological hazard to adjacent
25 properties beyond pre-development conditions;

26 b. Will not adversely impact other critical areas;

27 c. Are designed so that the hazard to the project is eliminated or
28 mitigated to a level equal to or less than pre-development conditions;
29 and

30 d. Are certified as safe as designed and under anticipated conditions by a
31 qualified engineer or geologist, licensed in the state of Washington.

32 4. Mitigation plans for geologically hazardous areas shall establish setbacks and
33 buffer widths as needed to eliminate or minimize risks of property damage,
34 death, or injury resulting from development of the hazard area. Where
35 established, buffers shall be maintained between all permitted uses and
36 activities and the designated geologically hazardous area(s).

37 5. The existing native vegetation within the buffer area(s) shall be maintained,
38 except that normal, nondestructive pruning and trimming of vegetation for
39 maintenance purposes is allowed;

40 6. Unless otherwise provided or as part of an approved alteration, removal of
41 vegetation from an erosion or landslide hazard area or related buffer shall be

- 1 prohibited. Where removal of vegetation is unavoidable, reseeding and
2 replanting with native vegetation shall be preferred. In lieu of a native
3 restoration planting an erosion control mix recommended by the Natural
4 Resource Conservation Service, the Grant County Conservation District, the
5 WSU Cooperative Extension Office, or other qualified agent to assist in
6 stabilization of the areas and to discourage establishment of invasive plants
7 may be substituted.
- 8 7. As determined through the site-specific study, appropriate drainage, grading,
9 excavation and erosion control measures shall be implemented in the
10 geologically hazardous area(s).
- 11 8. Every Erosion Hazard Area mitigation plan shall include a run-off
12 management plan or an erosion control plan to reduce sedimentation
13 problems.
- 14 9. Development and activities located within landslide or erosion hazard areas
15 shall provide for long-term slope stability, and design shall incorporate the
16 following standards:
- 17 a. Structures and improvements shall minimize alterations to the natural
18 contour of the slope and foundations shall be tiered where possible to
19 conform to existing topography;
- 20 b. Structures and improvements shall be located to preserve the most
21 critical portion of the site and its natural landforms and vegetation;
- 22 c. The proposed development shall not result in greater risk or a need for
23 increased buffers on neighboring properties;
- 24 d. The use of retaining walls that allow the maintenance of existing
25 natural slope area is preferred over graded artificial slopes; and
- 26 e. Development shall be designed to minimize impervious lot coverage.
- 27 10. Utility lines and pipes shall be permitted in erosion and landslide hazard areas
28 only when the applicant demonstrates that no other practical alternative is
29 available.
- 30 11. Subdivision of lands in erosion, landslide, and mine hazard areas is subject to
31 the following:
- 32 a. Land that is located wholly within an erosion, landslide or mine hazard
33 area or its buffer may not be subdivided. Land that is located partially
34 within an erosion, landslide or mine hazard area or its buffer may be
35 divided provided that each resulting lot has sufficient buildable area
36 outside of, and will not affect, the geologic hazard area.
- 37 b. Access roads and utilities may be permitted within the erosion,
38 landslide or mine hazard area and associated buffers only if no other
39 feasible alternative exists.
- 40 12. As determined through the site-specific study, mitigation measures shall be
41 implemented that maintain the integrity of the geologically hazardous area(s);

- 1 13. As determined through the site-specific study, appropriate management and
2 monitoring plan(s) shall be developed and implemented to preserve and
3 protect both the geologically hazardous area(s) and the project, with any
4 necessary surety to ensure compliance with such plan(s) being provided as
5 described herein above; and
- 6 14. A use or structure established prior to the effective date of this chapter which
7 does not conform to standards set forth herein, is allowed to continue and be
8 reasonably maintained; provided, that such activity or structure shall not be
9 expanded or enlarged in any manner that increases the extent of its
10 nonconformity.
- 11 15. Additional Considerations
- 12 a. Site specific considerations may warrant additional performance
13 standards, to be determined during the permit process, to ensure the
14 protection of critical areas.
- 15 b. Development specific considerations may warrant additional
16 performance standards based on level of impact to critical areas.

17 **14.19.460 Frequently Flooded Areas**

18 A. Classification

- 19 1. Frequently flooded areas shall be those floodways and associated floodplains
20 designated by the Federal Emergency Management Agency (FEMA) flood
21 hazard classifications as delineated on the most current available Flood
22 Insurance Rate Maps for Grant County, or as subsequently revised by FEMA,
23 as being within the 100-year flood plain, or those floodways and associated
24 floodplains delineated by a comprehensive flood hazard management plan
25 adopted by Grant County Board of Commissioners, as being within the 100-
26 year floodplain or having experienced historic flooding; or channel migration
27 zones (CMZ) identified through mapping developed as part of the 2013 SMP
28 update. The channel migration zone (CMZ) is considered to be that area of a
29 stream channel which may erode as a result of normal and naturally occurring
30 processes and has been mapped consistent with WAC 173-26-221(3)(b). For
31 the purpose of this ordinance, in case of conflict between FEMA flood hazard
32 maps and the comprehensive flood hazard management plan designations, the
33 more restrictive designation shall apply.

34 B. Maps and References

- 35 1. In addition to the Critical Areas Checklist prepared by the applicant and any
36 site reconnaissance conducted by the Department, the Shoreline Administrator
37 shall use the following maps and references to assist in making a Preliminary
38 Determination pursuant to Section 14.19.400 (I).
- 39 a. F.E.M.A. Flood Insurance Rate Maps (FIRM), most current available.
- 40 b. Maps and reference documents in the Grant County SMP Inventory,
41 Analysis, and Characterization report, as applicable.

- 1 c. CMZ mapping developed as part of the 2013 SMP update, noting
2 applicants for shoreline development or modification may submit a
3 site-specific channel migration zone study if they believe these
4 conditions do not exist on the subject property and the map is in error.
5 The CMZ study must be prepared consistent with WAC 173-26-
6 221(3)(b), and may include, but is not limited to, historic aerial
7 photographs, topographic mapping, flooding records, and field
8 verification. The CMZ must be prepared by a licensed geologist or
9 engineer with at least five years of applied experience in assessing
10 fluvial geomorphic processes and channel response.
 - 11 i. Channel migration zone maps prepared consistent with WAC
12 173-26-221(3)(b) are included in Grant County’s SMP
13 Inventory, Analysis, and Characterization report. These maps
14 provide complete coverage of waterbodies in Grant County that
15 have potential for channel migration. The responsible local
16 government shall utilize these maps in shoreline application
17 reviews.
 - 18 ii. Applicants for shoreline development or modification may
19 submit a site-specific channel migration zone study if they do
20 not agree with the mapping in Grant County’s SMP Inventory,
21 Analysis, and Characterization report.

22 C. Development Standards

- 23 1. In addition to the general provisions of these regulations and the requirements
24 of the underlying zoning district, the following minimum standards shall
25 apply to development activities within and adjacent to frequently flooded
26 areas:
 - 27 a. All development within frequently flooded areas shall comply with the
28 Grant County Flood Damage and Prevention Ordinance (GCC 24.16)
29 regarding structural safeguards to reduce risk to human life, health and
30 property from flooding, and other pertinent ordinances and codes.
 - 31 b. Any use or development shall not alter the normal movement of
32 surface water in a manner that would cause the unnatural diversion of
33 floodwater to otherwise flood-free areas.
 - 34 c. The Crab Creek CMZ shall be regulated as floodway consistent with
35 Section 14.19.270, Flood Hazard Reduction, and the Grant County
36 Flood Damage and Prevention Ordinance (GCC 24.16).
 - 37 i. Documentation of alternate channel migration zone boundaries
38 must be prepared consistent with WAC 173-26-221(3)(b), and
39 may include, but is not limited to, historic aerial photographs,
40 topographic mapping, flooding records, and field verification
41 (based on WAC 173-26-221(3)(b) and comments by U.S. Fish
42 and Wildlife Service).

- 1 d. Where Frequently Flooded Areas coincide with other designated
2 critical areas, critical areas reports and mitigation plans shall address
3 any combined functions and values.
- 4 e. Filling and grading in Frequently Flooded Areas shall occur only upon
5 a determination by a qualified professional that the filling or grading
6 will not increase flood hazards to others.
- 7 f. Subdivision in Frequently Flooded Areas is subject to the following
8 standards:
 - 9 i. All lots created shall have adequate building space outside
10 flood hazard areas, including the floodway, 100-year
11 floodplain, and channel migration zones;
 - 12 ii. Plat maps shall indicate the floodway and the 100-year
13 floodplain;
 - 14 iii. Subdivisions shall be designed to minimize or eliminate the
15 potential for flood damage; and
 - 16 iv. Subdivisions shall provide for storm water drainage, in
17 accordance with town standards, so as to reduce exposure to
18 flood hazards.
- 19 g. Bank Stabilization Projects: Where consistent with other regulations
20 and with the Flood Hazard Reduction Plan, protection of structures,
21 public roadways or sole access routes in existence before the effective
22 date of this chapter shall be allowed. Such projects shall be designed
23 to minimize adverse impacts to property, public improvements, and
24 ecological functions.
- 25 h. Utilities shall be located above the Base Flood Elevation (BFE),
26 preferably three or more feet.
- 27 i. All new construction and substantial improvements shall be
28 constructed using flood resistant materials and using methods and
29 practices that minimize flood damage.
- 30 j. All new construction and substantial improvements shall be anchored
31 to prevent flotation, collapse, or lateral movement of the structure.
- 32 k. No rise in the BFE shall be allowed. Post and piling techniques are
33 preferred and are presumed to produce no increase in the BFE.
- 34 l. Modification of stream channels shall be avoided.

35 **14.19.470 Existing structures and development.**

- 36 A. Lawfully existing structures and previously approved developments prior to the
37 adoption of this section shall be allowed to continue as exemptions from this chapter.
38 It is the intention of this chapter to allow these nonconforming uses to continue and to
39 allow previously approved developments to commence without any additional review
40 procedures.

1 **14.19.480 Warning and disclaimer of liability.**

2 A. This chapter does not imply that land outside critical areas activities that are permitted
3 within such areas will be free from exposure or damage resulting from catastrophic
4 natural disasters which can, and will, occur on rare occasions. This chapter shall not
5 impose or create any liability on the part of the Town, elected or appointed officials,
6 and/or employees thereof, for any damages that result from reliance on this chapter or
7 any administration decision lawfully made hereunder.

8

9

Article VI. Existing Uses, Structures and Lots

10 **14.19.500 Applicability**

11 A. All nonconformances in shoreline jurisdiction shall be subject to the provisions of this
12 Section, Existing Uses, Structures and Lots. For nonconformance of use, structures
13 and lots within shoreline critical areas, Article V, Critical Areas applies. When there
14 is a conflict between this Section and the Critical Area Section as applicable to
15 critical areas, the more restrictive standards shall apply.

16 B. The provisions of this chapter do not supersede or relieve a property owner from
17 compliance with:

- 18 1. The requirements of the International Building and Fire Codes; or
19 2. The provisions of the SMP beyond the specific nonconformance addressed by
20 this chapter.

21 C. A change in the required permit review process (e.g. Shoreline Substantial
22 Development Permit versus a Shoreline Conditional Use Permit) shall not create a
23 nonconformance.

24 D. Any nonconformance that is brought into conformance for any period of time shall
25 forfeit status as nonconformance, except as specified in Section 14.19.510,
26 Nonconforming Uses.

27 E. A nonconforming lot, use, or structure may be deemed legally nonconforming by
28 providing documentation that the use in question occurred prior to the effective date
29 of this SMP, from one of the following:

- 30 1. Local agency permit;
31 2. Orthophoto, aerial photo or planimetric mapping recognized as legitimate by
32 the agency; or
33 3. Tax record

34 **14.19.510 Nonconforming Uses**

35 A. If, at the effective date of the SMP and any amendment thereto, a lawful use of land
36 exists that is made no longer permissible under the terms of this SMP or amendments
37 thereto, such use may be continued as a nonconforming use so long as it remains
38 otherwise lawful subject to the following conditions:

- 1 1. No nonconforming use shall be intensified, enlarged, increased or extended to
2 No nonconforming use shall be intensified, enlarged, increased or extended to
3 occupy a greater area of land than was occupied on the effective date of the
4 SMP or amendment that made the use no longer permissible. Provided that a
5 nonconforming use may be enlarged, increased or extended in conformance
6 with applicable bulk and dimensional standards of this SMP upon approval of
7 a shoreline conditional use permit.
- 8 2. No nonconforming use shall be moved in whole or in part to any other portion
9 of the lot which contains the nonconforming use.
- 10 3. If any nonconforming use of land ceases for any reason for a period of one
11 year, any subsequent use of such land shall conform to the regulations
12 specified by this SMP for the use environment in which such land is located.
- 13 4. A structure which is being or has been used for a nonconforming use may be
14 used for a different nonconforming use only upon a finding that:
 - 15 a. No reasonable alternative conforming use is practical;
 - 16 b. The proposed use is equally or more appropriate to the shoreline
17 environment than the existing nonconforming use, and is at least as
18 consistent with the policies and provisions of the act and the SMP;
 - 19 c. Such a change of use shall be subject to conditional use permit
20 approval. Conditions may be attached to the permit as are deemed
21 necessary to assure compliance with the above findings, the
22 requirements of the master program and the Act and to assure that the
23 use will not become a nuisance or a hazard.

24 **14.19.520 Nonconforming Structures**

- 25 A. If, at the effective date of the SMP or any amendment thereto, a lawful structure or
26 other improvement exists which is made no longer permissible under the terms of this
27 SMP or amendment thereto, such structure or other improvement may be continued
28 as a nonconforming structure or other improvement so long as it remains otherwise
29 lawful, subject to the following conditions:
 - 30 1. No nonconforming structure or other improvement shall be altered or changed
31 in a way which increases its nonconformity except as allowed in “(b)”.
 - 32 2. Expansions of structures that are nonconforming with respect to a required
33 shoreline buffer:
 - 34 d. May not encroach any farther waterward into the required shoreline
35 buffer.
 - 36 e. Applicants for such expansions shall restore a portion of the shoreline
37 buffer with riparian vegetation at a 1:1 area ratio to offset the adverse
38 impact, such that the shoreline buffer will function at an equivalent or
39 higher level than the existing conditions. When such expansions occur
40 upland of an existing levee, the applicant’s critical areas report may

- 1 justify a smaller ratio provided that the study demonstrates no net loss
2 of ecological functions.
- 3 f. Greater expansions or alterations of a nonconforming structure require
4 a Shoreline Variance.
- 5 B. All expansion, extension, maintenance or repair activities of nonconforming
6 structures or improvements shall be consistent with all other provisions of this
7 Program including requirements for no net loss of shoreline ecological functions,
8 provided the cumulative cost of such maintenance or repair within any 180-day
9 period shall not exceed 50 percent of the assessed valuation of such building,
10 structure, or land (as applicable) at the time such maintenance is completed.
- 11 C. When damaged, a nonconforming structure may be restored to the configuration
12 existing immediately prior to the time that the structure was damaged, provided that:
- 13 1. The structure is damaged to an extent not exceeding seventy-five percent of
14 the replacement cost of the original development.
- 15 2. The applicant applies for permits needed to restore the development within six
16 months of the date the damage occurred.
- 17 3. Reconstruction is started within 12 months and is completed within 24 months
18 of the date of damage, unless an extension of time is granted by the Shoreline
19 Administrator upon written petition substantiating to the satisfaction of the
20 Administrative Official due cause for such extension;
- 21 4. The degree of the nonconforming use, building or structure is not increased.
- 22 D. Nothing in this section will prohibit vertical expansion up to the height allowed in the
23 applicable use environment, provided all other applicable requirements of Town of
24 Krupp development regulations are met.
- 25 E. Upkeep, repairs and maintenance of a nonconforming structure or other improvement
26 shall be permitted.
- 27 F. Should such structure or other improvement be moved for any reason for any distance
28 whatever, it shall thereafter conform to the regulations for the use environment in
29 which it is located. Conformance shall be required when:
- 30 1. A change of use is proposed;
- 31 2. The use is terminated or discontinued for more than one year, or the
32 structure(s) that houses the use is vacated for more than one year; or
- 33 3. The structure(s) or activity that occurs on the land in which the use is
34 conducted is proposed for relocation.
- 35 G. Residential structures and appurtenant structures that were legally established and are
36 used for a conforming use, but that do not meet standards for the following shall be
37 considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or
38 density.

1 H. For purposes of this section, "appurtenant structures" means garages, sheds, and other
2 legally established structures. "Appurtenant structures" does not include bulkheads
3 and other shoreline modifications or over-water structures.

4

5

Article VII. Administration and Enforcement

6

14.19.600 Roles and Responsibilities

7

A. Shoreline Administrator

8

4. The Town Mayor or his/her designee shall serve as the Shoreline
9 Administrator, and in the case of a Shoreline Substantial Development Permit
10 (SDP) to grant or deny the permit. The administrator shall administer the
11 shoreline permit and notification systems, and shall be responsible for
12 coordinating the administration of shoreline regulations with zoning
13 enforcement, building permits, and all other regulations regulating land use
14 and development in the Town.

15

5. The Shoreline Administrator or his/her designee shall be familiar with
16 regulatory measures pertaining to shorelines and their use, and, within the
17 limits of his or her authority, shall cooperate in the administration of these
18 measures. Permits issued under the provisions of this shoreline regulation
19 shall be coordinated with other land use and development regulatory measures
20 of the Town. The Shoreline Administrator shall establish procedures that
21 advise all parties seeking building permits or other development authorization
22 of the need to consider possible shoreline applications. It is the intent of the
23 Town, consistent with its regulatory obligations, to simplify and facilitate the
24 processing of Shoreline Substantial Development Permits.

25

6. The Shoreline Administrator or his/her designee shall assure that proposed
26 regulatory or administrative actions do not unconstitutionally infringe upon
27 private property rights. Shoreline goals and policies should be pursued
28 through the regulation of development of private property only to an extent
29 that is consistent with all relevant constitutional and other legal limitations
30 (where applicable, statutory limitations such as those contained in chapter
31 82.02 RCW and RCW 43.21C.060) on the regulation of private property.

32

7. The Shoreline Administrator or his/her designee shall apply Article VII,
33 Administration and Enforcement for shoreline critical areas.

34

8. The Shoreline Administrator or his/her designee shall review Shoreline
35 Substantial Development, Variances and Shoreline Conditional Use Permits
36 pursuant to 14.09.040, 14.19. 650, 14.19.660 and 14.19.670.

37

B. Hearing Examiner

38

1. The Hearing Examiner shall have the authority to decide on appeals from
39 administrative decisions issued by the Shoreline Administrator of this SMP.

40

C. Town Council

- 1 1. The Town Council is vested with authority to:
- 2 a. Initiate an amendment to this SMP according to the procedures
- 3 prescribed in WAC 173-26-100.
- 4 b. Adopt all amendments to this SMP. Substantive amendments shall
- 5 become effective immediately upon adoption by Ecology.

6 **14.19.610 Interpretation**

- 7 A. Under the administrative provisions, the Shoreline Administrator shall have authority
- 8 to interpret this SMP when such interpretation is clearly consistent with the goals and
- 9 policies of this SMP and the Act.
- 10 B. The Town shall consult with Ecology if formal written interpretations are developed
- 11 as a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master
- 12 Program to ensure that any are consistent with the purpose and intent of Chapter
- 13 90.58 and 173-26 WAC.

14 **14.19.620 Statutory Noticing Requirements**

- 15 A. At a minimum the Town shall provide notice in accordance with WAC 173.27-110,
- 16 and may provide for additional noticing requirements

17 **14.19.630 Application Requirements**

- 18 A. A complete application for a Shoreline Substantial Development, Shoreline
- 19 Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the
- 20 information listed in WAC 173-27-180.
- 21 B. The Shoreline Administrator shall provide written informational materials,
- 22 procedures, instructions, and forms, required to submit an application for a shoreline
- 23 substantial development permit, variance, or conditional use permit.
- 24 C. These materials could include a plan cover sheet; JARPA form; SEPA checklist; fee
- 25 schedule; review criteria; process and timelines to assist potential applicants and
- 26 interested parties on the permit application submittal and review process.
- 27 D. The Shoreline Administrator may vary or waive these requirements according to
- 28 administrative application requirements on a case-by-case basis.
- 29 E. The Shoreline Administrator may require additional specific information depending
- 30 on the nature of the proposal and the presence of sensitive ecological features or
- 31 issues related to compliance with other requirements, and the provisions of this SMP.

32 **14.19.640 Exemptions from Shoreline Substantial Development Permits**

- 33 A. An exemption from the Shoreline Substantial Development Permit process is not an
- 34 exemption from compliance with the SMA or this SMP, or from any other regulatory
- 35 requirements. All proposed uses, activities, or development occurring within
- 36 shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58
- 37 RCW, the SMA, and this SMP whether or not a permit or other form of authorization
- 38 is required.

- 1 1. Letters of exemption shall be issued by the Town when an exemption applies
2 or when a letter of exemption is required by the provisions of WAC 173-27-
3 050 and as follows:
- 4 2. Any person claiming exemption from the substantial development permit
5 requirements shall make an application to the Shoreline Administrator for
6 such an exemption in the manner prescribed by the Shoreline Administrator,
7 except that no written statement of exemption is required for emergency
8 development pursuant to WAC 173-27-040(2)(d)
- 9 3. The Shoreline Administrator is authorized to grant or deny requests for
10 statements of exemption from the shoreline substantial development permit
11 requirement for uses and developments within shorelines that are specifically
12 listed in Section 40.460.230(B). The statement shall be in writing and shall
13 indicate the specific exemption of this Program that is being applied to the
14 development, and shall provide a summary of the Shoreline Administrator's
15 analysis of the consistency of the project with this Program and the Act. The
16 letter shall be sent to the applicant and maintained on file in the offices of the
17 Shoreline Administrator.
- 18 4. Statements of exemption may contain conditions and/or mitigating measures
19 of approval to achieve consistency and compliance with the provisions of this
20 Program and the Act
- 21 5. A denial of an exemption shall be in writing and shall identify the reason(s)
22 for the denial. The Shoreline Administrator's decision on a statement of
23 exemption is not subject to administrative appeal.
- 24 6. Exempt activities shall not be conducted until a statement of exemption has
25 been obtained from the Shoreline Administrator.
- 26 B. Interpretations of Exemptions
- 27 1. Exemptions shall be construed narrowly. Only those developments that meet
28 the precise terms of one or more of the listed exemptions may be granted
29 exemption from the Shoreline Substantial Development Permit process.
- 30 2. A development or use that is listed as a conditional use pursuant to this SMP
31 or is an unlisted use, must obtain a Shoreline Conditional Use Permit even
32 though the development or use does not require a Shoreline Substantial
33 Development Permit. When a development or use is proposed that does not
34 comply with the bulk, dimensional and performance standards of this SMP,
35 such development or use can only be authorized by approval of a Shoreline
36 Variance.
- 37 3. The burden of proof that a development or use is exempt from the permit
38 process is on the applicant.
- 39 4. If any part of a proposed development is not eligible for exemption, then a
40 Shoreline Substantial Development Permit is required for the entire proposed
41 development project.

1 5. The Town may attach conditions to the approval of exempted developments
2 and/or uses as necessary to assure consistency of the project with the SMA
3 and this SMP. Additionally, nothing shall interfere with each responsible local
4 government's ability to require compliance with all other applicable laws and
5 plans.

6 C. The Town shall exempt from the Shoreline Substantial Development Permit
7 requirement the shoreline developments listed below:

8 1. Any development of which the total cost or fair market value does not exceed
9 six thousand, four hundred, sixteen dollars (\$6,416) or as adjusted by the
10 State Office of Financial Management, if such development does not
11 materially interfere with the normal public use of the water or shorelines of
12 the state. For purposes of determining whether or not a permit is required, the
13 total cost or fair market value shall be based on the value of development that
14 is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c).
15 The total cost or fair market value of the development shall include the fair
16 market value of any donated, contributed, or found labor, equipment or
17 materials.

18 2. Normal maintenance or repair of existing legally-established structures or
19 developments, including damage by accident, fire, or elements. Replacement
20 of a structure or development may be authorized as repair where such
21 replacement is the common method of repair for the type of structure or
22 development and the replacement structure or development is comparable to
23 the original structure or development including but not limited to its size,
24 shape, configuration, location, and external appearance and the replacement
25 does not cause substantial adverse effects to shoreline resources or
26 environment.

27 3. Construction of a normal protective bulkhead common to single-family
28 residences. A "normal protective" bulkhead includes those structural and
29 nonstructural developments installed at or near, and parallel to, the ordinary
30 high water mark for the sole purpose of protecting an existing single-family
31 residence and appurtenant structures from loss or damage by erosion. A
32 normal protective bulkhead is not exempt if constructed for the purpose of
33 creating dry land. When a vertical or near vertical wall is being constructed or
34 reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall
35 may be used as backfill. When an existing bulkhead is being repaired by
36 construction of a vertical wall fronting the existing wall, it shall be
37 constructed no further waterward of the existing bulkhead than is necessary
38 for construction of new footings. When a bulkhead has deteriorated such that
39 an ordinary high water mark has been established by the presence and action
40 of water landward of the bulkhead then the replacement bulkhead must be
41 located at or near the actual ordinary high water mark. Beach nourishment and
42 bioengineered erosion control projects may be considered a normal protective
43 bulkhead when any structural elements are consistent with the above

- 1 requirements and when the project has been approved by the Department of
2 Fish and Wildlife (WDFW).
- 3 4. Emergency construction necessary to protect property from damage by the
4 elements. An "emergency" is an unanticipated and imminent threat to public
5 health, safety, or the environment that requires immediate action within a time
6 too short to allow full compliance with this chapter. Emergency construction
7 does not include development of new permanent protective structures where
8 none previously existed. Where new protective structures are deemed by the
9 Shoreline Administrator to be the appropriate means to address the emergency
10 situation, upon abatement of the emergency situation the new structure shall
11 be removed or any permit that would have been required, absent an
12 emergency, pursuant to RCW 90.58 these regulations, or this Program, shall
13 be obtained. All emergency construction shall be consistent with the policies
14 and requirements of this chapter, RCW 90.58, and this Program. As a general
15 matter, flooding or other seasonal events that can be anticipated and may
16 occur but that are not imminent are not an emergency.
- 17 5. Construction and practices normal or necessary for farming, irrigation, and
18 ranching activities, including agricultural service roads and utilities on
19 shorelands, and the construction and maintenance of irrigation structures
20 including but not limited to head gates, pumping facilities, and irrigation
21 channels. A feedlot of any size, all processing plants, other activities of a
22 commercial nature, alteration of the contour of the shorelands by leveling or
23 filling other than that which results from normal cultivation, shall not be
24 considered normal or necessary farming or ranching activities.
- 25 6. Construction on shorelands by an owner, lessee, or contract purchaser of a
26 single-family residence or appurtenance for their own use or for the use of
27 their family, which residence does not exceed a height of thirty-five (35) feet
28 above average grade level, and which meets all requirements of the Town,
29 other than requirements imposed pursuant to RCW 90.58. Construction
30 authorized under this exemption shall be located landward of the ordinary
31 high water mark.
- 32 7. Operation, maintenance, or construction of canals, waterways, drains,
33 reservoirs, or other facilities that now exist or are hereafter created or
34 developed as a part of an irrigation system , including return flow and
35 artificially stored ground water from the irrigation of lands.
- 36 8. The marking of property lines or corners on state-owned lands, when such
37 marking does not significantly interfere with normal public use of the surface
38 of the water.
- 39 9. Operation and maintenance of existing and future system of dikes, ditches,
40 drains, or other facilities on irrigable lands where water is being drained from
41 irrigation runoff or shallow groundwater levels artificially recharged through
42 irrigation, and that) are created, developed or utilized primarily as a part of an
43 agricultural drainage or diking system.

- 1 10. Any project with a certification from the governor pursuant to RCW 80.50
2 (certification from the State Energy Facility Site Evaluation Council).
- 3 11. Site exploration and investigation activities that are prerequisite to preparation
4 of an application for development authorization under this chapter, if:
 - 5 a. The activity does not interfere with the normal public use of surface
6 waters;
 - 7 b. The activity will have no significant adverse impact on the
8 environment including but not limited to fish, wildlife, fish or wildlife
9 habitat, water quality, and aesthetic values;
 - 10 c. The activity does not involve the installation of any structure, and
11 upon completion of the activity the vegetation and land configuration
12 of the site are restored to conditions existing before the activity; and
 - 13 d. A private entity seeking development authorization under this section
14 first posts a performance bond or provides other evidence of financial
15 responsibility to the local jurisdiction to assure that the site is restored
16 to preexisting conditions.
- 17 12. The process of removing or controlling aquatic noxious weeds, as defined in
18 RCW 17.26.020, through the use of an herbicide or other treatment methods
19 applicable to weed control published by the Departments of Agriculture or
20 Ecology jointly with other state agencies under RCW 43.21C.
- 21 13. Watershed restoration projects as defined in RCW 89.08.460.
- 22 14. A public or private project that is designed to improve fish or wildlife habitat
23 or fish passage when all of the following apply:
 - 24 a. The project has been approved by WDFW;
 - 25 b. The project has received hydraulic project approval (HPA) by WDFW
26 pursuant to RCW 77.55; and
 - 27 c. The Town has determined that the project is substantially consistent
28 with the local shoreline master program. Grant Town shall make such
29 determination in a timely manner and provide it by letter to the
30 applicant.
 - 31 d. Fish habitat enhancement projects that conform to the provisions of
32 RCW 77.55.181 are determined to be consistent with local shoreline
33 master programs.
- 34 15. Any person conducting a remedial action at a facility pursuant to a consent
35 decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology
36 when it conducts a remedial action under RCW 70.105D.
- 37 16. Other than conversions to non-forest land use, forest practices regulated under
38 RCW 76.09 are not subject to additional regulations under the Act or this
39 Program (90.58.030(2)(d)(ii)).

1 **14.19.650 Shoreline Substantial Development Permits**

- 2 A. A Shoreline Substantial Development Permit shall be required for all development of
3 shorelines, unless the proposal is specifically exempted per Section 14.19.640.
4 Shoreline Substantial Development permits shall be processed as set forth in the
5 Town's Code Section 14.09.040, Full Administrative Review of Applications.
- 6 B. A Shoreline Substantial Development Permit shall be granted only when the
7 development proposed is consistent with:
 - 8 1. The policies and procedures of the Act, RCW 90.58;
 - 9 2. The applicable provisions of WAC 173-27; and
 - 10 3. This SMP.
- 11 C. The Town may attach conditions to the approval of permits as necessary to assure
12 consistency of the project with the SMA and this SMP.
- 13 D. Nothing shall interfere with the Town's ability to require compliance with all other
14 applicable plans and laws.
- 15 E. In the granting of all shoreline substantial development permits, consideration shall
16 be given to the cumulative environmental impact of additional requests for like
17 actions in the area. For example, if shoreline substantial development permits were
18 granted for other developments in the area where similar circumstances exist, the sum
19 of the permitted actions should also remain consistent with the policy of RCW
20 90.58.020 and should not produce significant adverse effects to the shoreline
21 ecological functions and processes or other users.

22 **14.19.660 Shoreline Conditional Use Permits**

- 23 A. Uses specifically classified or set forth in this SMP as conditional uses shall be
24 subject to review and condition by the Shoreline Administrator and by Ecology.
25 Applications for a Shoreline Conditional Use Permit shall be processed as set forth in
26 the Town's Code Section 14.09.040, Full Administrative Review of Applications.
- 27 B. Other uses which are not classified or listed or set forth in this SMP may be
28 authorized as conditional uses provided the applicant can demonstrate consistency
29 with the requirements of this Section and the requirements for conditional uses
30 contained in this SMP.
- 31 C. Uses which are specifically prohibited by this SMP may not be authorized as a
32 conditional use.
- 33 D. Review Criteria for SCUP. Uses which are classified or set forth in the applicable
34 master program as conditional uses may be authorized provided that the applicant
35 demonstrates all of the following:
 - 36 1. That the proposed use is consistent with the policies of RCW 90.58.020 and
37 the master program;
 - 38 2. That the proposed use will not interfere with the normal public use of public
39 shorelines;

- 1 3. That the proposed use of the site and design of the project is compatible with
2 other authorized uses within the area and with uses planned for the area under
3 the comprehensive plan and shoreline master program;
- 4 4. That the proposed use will cause no significant adverse effects to the shoreline
5 environment in which it is to be located; and
- 6 5. That the public interest suffers no substantial detrimental effect.
- 7 E. In the granting of all conditional use permits, consideration shall be given to the
8 cumulative impact of additional requests for like actions in the area. For example, if
9 conditional use permits were granted for other developments in the area where similar
10 circumstances exist, the total of the conditional uses shall also remain consistent with
11 the policies of RCW 90.58.020 and shall not produce substantial adverse effects to
12 the shoreline environment.
- 13 F. In authorizing a conditional use, special conditions may be attached to the permit by
14 the Town or Ecology to prevent undesirable effects of the proposed use and/or to
15 assure consistency of the project with the SMA and this SMP.
- 16 G. Nothing shall interfere with the Town's ability to require compliance with all other
17 applicable plans and laws.

18 **14.19.670 Shoreline Variance Permits**

- 19 A. The purpose of a variance is to grant relief to specific bulk or dimensional
20 requirements set forth in this SMP where there are extraordinary or unique
21 circumstances relating to the property such that the strict implementation of this SMP
22 would impose unnecessary hardships on the applicant or thwart the policies set forth
23 in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.
24 Applications for Shoreline Variance Permits shall be processed as set forth in the
25 Town's Code Section 14.09.040, Full Administrative Review of Applications.
- 26 B. Review Criteria
 - 27 1. Variance permits should be granted in circumstances where denial of the
28 permit would result in a thwarting of the policy enumerated in RCW
29 90.58.020. In all instances the applicant must demonstrate that extraordinary
30 circumstances shall be shown and the public interest shall suffer no substantial
31 detrimental effect.
 - 32 2. Variance permits for development and/or uses that will be located landward of
33 the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any
34 wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the
35 applicant can demonstrate all of the following:
 - 36 a. That the strict application of the bulk, dimensional or performance
37 standards set forth in the SMP precludes, or significantly interferes
38 with, reasonable use of the property;
 - 39 b. That the hardship described in criterion 14.19.670 (B)(2)(a) of this
40 subsection is specifically related to the property, and is the result of
41 unique conditions such as irregular lot shape, size, or natural features

- 1 and the application of the SMP, and not, for example, from deed
2 restrictions or the applicant's own actions;
- 3 c. That the design of the project is compatible with other authorized uses
4 within the area and with uses planned for the area under the
5 comprehensive plan and SMP and will not cause adverse impacts on
6 the shoreline environment;
- 7 d. That the variance will not constitute a grant of special privilege not
8 enjoyed by the other properties in the area;
- 9 e. That the variance requested is the minimum necessary to afford relief;
10 and
- 11 f. That the public interest will suffer no substantial detrimental effect.
- 12 3. Variance permits for development and/or uses that will be located waterward
13 of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as
14 defined in RCW 90.58.030(2)(h), may be authorized provided the applicant
15 can demonstrate all of the following:
- 16 a. That the strict application of the bulk, dimensional or performance
17 standards set forth in the applicable master program precludes all
18 reasonable use of the property;
- 19 b. That the proposal is consistent with the criteria established under
20 Section 14.19.670 (B)(2)(a)-(f) above can be met; and
- 21 c. That the public rights of navigation and use of the shorelines will not
22 be adversely affected.
- 23 4. In the granting of all variance permits, consideration shall be given to the
24 cumulative impact of additional requests for like actions in the area. For
25 example if variances were granted to other developments and/or uses in the
26 area where similar circumstances exist the total of the variances shall also
27 remain consistent with the policies of RCW 90.58.020 and shall not cause
28 substantial adverse effects to the shoreline environment.

29 **14.19.680 Duration of Permits**

- 30 A. The duration of permits shall be consistent with WAC 173-27-090.

31 **14.19.690 Initiation of Development**

- 32 A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline
33 Variance, issued by local government shall contain a provision that construction
34 pursuant to the permit shall not begin and is not authorized until twenty-one (21) days
35 from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC
36 173-27-130, or until all review proceedings initiated within twenty-one (21) from the
37 date of receipt of the decision, except as provided in RCW 90.58.140(5)(a) and (b).
38 The date of receipt for a Substantial Development Permit means that date the
39 applicant receives written notice from Ecology that it has received the decision. With
40 regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of

1 receipt means the date a responsible local government or applicant receives the
2 written decision of Ecology.

3 B. Permits for Substantial Development, Shoreline Conditional use, or Shoreline
4 Variance may be in any form prescribed and used by the Town including a combined
5 permit application form. Such forms will be supplied by the Town.

6 C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The
7 permit data sheet form shall be consistent with WAC 173-27-990.

8 **14.19.700 Review Process**

9 A. After the Town's approval of a Shoreline Conditional Use or Variance Permit, the
10 Town shall submit the permit to the Department of Ecology for approval, approval
11 with conditions, or denial. Ecology shall render and transmit to the Town and the
12 applicant its final decision approving, approving with conditions, or disapproving the
13 permit within thirty days of the date of submittal by the Town pursuant to WAC 173-
14 27-110.

15 B. The Department of Ecology shall review the complete file submitted by the Town on
16 Shoreline Conditional Use or Variance Permits and any other information submitted
17 or available that is relevant to the application. Ecology shall base its determination to
18 approve, approve with conditions or deny a conditional use permit or variance on
19 consistency with the policy and provisions of the SMA and, except as provided in
20 WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.

21 C. The Town shall provide timely notification of the Department of Ecology's final
22 decision to those interested persons having requested notification from local
23 government pursuant to WAC 173-27-130.

24 **14.19.710 Appeals**

25 A. Appeals of Shoreline Permit Decisions. Town of Krupp's decisions on Shoreline
26 permits may be appealed to the following 'bodies' in this sequence, as applicable:

- 27 1. Town of Krupp Hearings Examiner or in accordance with KMC 14.11
28 Appeals.
- 29 2. State Shorelines Hearings Board (SHB) in Tumwater
- 30 3. SHB decisions may be appealed to superior court.
- 31 4. Superior court decisions may be appealed to the Court of Appeals
- 32 5. Appeals Court decisions may be appealed to the Washington Supreme Court
- 33 6. Appeals to the SHB and courts are governed by RCW 90.58.180, RCW
34 43.21B.001, RCW 34.05 Part V, and WAC 461.08.

35 B. All requests for review of any final permit decisions under chapter 90.58 RCW and
36 chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180
37 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines
38 hearings board.

1 **14.19.720 Amendments to Permits**

2 A. A permit revision is required whenever the applicant proposes substantive changes to
3 the design, terms or conditions of a project from that which is approved in the permit.
4 Changes are substantive if they materially alter the project in a manner that relates to
5 its conformance to the terms and conditions of the permit, the SMP and/or the
6 policies and provisions of chapter 90.58 RCW. Changes which are not substantive in
7 effect do not require approval of a revision.

8 B. Revisions to permits shall be considered consistent with WAC 173-27-100.

9 **14.19.730 Enforcement**

10 A. The Act provides for a cooperative program between the Town of Krupp and the
11 Department of Ecology to implement and enforce the provisions of the Act and this
12 Master Program. This Section provides for a variety of means of enforcement,
13 including civil and criminal penalties, orders to cease and desist, and orders to take
14 corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290,
15 173-27-300 and KMC 14.13. The enforcement means and penalties provided herein
16 are not exclusive and may be taken or imposed in conjunction with, or in addition to,
17 any other civil enforcement actions and civil penalties, injunctive or declaratory
18 relief, criminal prosecution, actions to recover civil or criminal penalties, or any other
19 action or sanction authorized by this Section, or any other provision of the Town of
20 Krupp Code and Land Use Code, or any other provision of state or federal law and
21 regulation.

22 B. The Shoreline Administrator, with the assistance of the Town's attorney, shall have
23 authority to commence and prosecute any enforcement action authorized by this
24 section. In determining the appropriate enforcement actions to be commenced and
25 prosecuted, the Administrator shall consider the following factors:

- 26 1. The nature of the violation;
- 27 2. The extent of damage or potential future risk to the shoreline environment and
28 its ecological functions or to the public health and safety, caused by or
29 resulting from, whether directly or indirectly, the alleged violation;
- 30 3. The existence of knowledge, intent, or malice on behalf of the violator;
- 31 4. The economic benefit or advantage that accrued to the violator(s) as a result
32 of the violation; and
- 33 5. The estimated actions and costs of providing adequate mitigation, restoration,
34 rehabilitation, or enhancement, to repair or minimize any substantial adverse
35 impacts upon the shoreline environment and its ecological functions, or the
36 public health and safety.

37 C. The Shoreline Administrator may commence and prosecute enforcement action
38 jointly with the Department of Ecology. Pursuant to WAC Chapter 173-27, the
39 Department of Ecology may initiate and prosecute enforcement action separate from
40 the Shoreline Administrator.

1 **14.19.740 Cumulative Effects of Shoreline Developments**

- 2 A. The Town will periodically evaluate the effectiveness of the Shoreline Master
3 Program update for achieving no net loss of shoreline ecological functions with
4 respect to shoreline permitting and exemptions in order to comply with WAC 173-26-
5 191(2)(a)(iii)(D).
- 6 B. The Shoreline Administrator will, to the extent feasible, coordinate with other
7 departments of the Town or as adjacent jurisdictions, to assess cumulative effects of
8 shoreline development.

9 **14.19.750 Amendments to Shoreline Master Program**

- 10 A. Amendments to the Program shall be processed as legislative decisions pursuant to
11 WAC 173-26-110 as mentioned in this subsection. A complete submittal shall include
12 two copies of the following, where applicable:
- 13 1. Documentation (i.e., signed resolution or ordinance) that the proposal has
14 been approved by the local government;
 - 15 2. If the proposal includes text amending a master program document of record,
16 it shall be submitted in a form that can replace or be easily incorporated within
17 the existing document.
 - 18 3. Amended text shall show strikeouts for deleted text and underlining for new
19 text, clearly identifying the proposed changes. At the discretion of the
20 department, strikeouts and underlined text may not be required provided the
21 new or deleted portions of the master program are clearly identifiable;
 - 22 4. Amended environment designation map(s), showing both existing and
23 proposed designations, together with corresponding boundaries described in
24 text for each change of environment. All proposals for changes in
25 environment designation and redesignation shall provide written justification
26 for such based on existing development patterns, the biophysical capabilities
27 and limitations of the shoreline being considered, and the goals and
28 aspirations of the local citizenry as reflected in the locally adopted
29 comprehensive land use plan;
 - 30 5. A summary of proposed amendments together with explanatory text
31 indicating the scope and intent of the proposal, staff reports, records of the
32 hearing, and/or other materials which document the necessity for the proposed
33 changes to the master program;
 - 34 6. Evidence of compliance with chapter 43.21C RCW, the State Environmental
35 Policy Act, specific to the proposal;
 - 36 7. Evidence of compliance with the public notice and consultation requirements
37 of WAC 173-26-100;
 - 38 8. Copies of all public, agency and tribal comments received, including a record
39 of names and addresses of interested parties involved in the local government
40 review process or, where no comments have been received, a comment to that
41 effect.

- 1 9. A copy of the master program submittal checklist completed in accordance
- 2 with WAC 173-26-201 (2)(f) and (3)(a) and (h).
- 3 10. For comprehensive master program updates, copies of the inventory and
- 4 characterization, use analysis, restoration plan and cumulative impacts
- 5 analysis.
- 6 B. Any locally approved amendments to the SMP will not become effective until
- 7 approved by the State Department of Ecology.

8

9 **14.19.760 Definitions**

10 A. Definitions

- 11 1. "Act" means the Washington State Shoreline Management Act, chapter 90.58
- 12 RCW.
- 13 2. "Adjacent," for purposes of applying Article V – Critical Areas, means
- 14 immediately adjoining (in contact with the boundary of the influence area) or
- 15 within a distance less than that needed to separate activities from critical areas
- 16 to ensure protection of the functions and values of the critical areas. Adjacent
- 17 shall mean any activity or development located:
 - 18 a. On-site immediately adjoining a critical area; or
 - 19 b. A distance equal to or less than the required critical area buffer width
 - 20 and building setback.
- 21 3. "Adoption by rule" means an official action by the department to make a local
- 22 government shoreline master program effective through rule consistent with
- 23 the requirements of the Administrative Procedure Act, chapter 34.05 RCW,
- 24 thereby incorporating the adopted shoreline master program or amendment
- 25 into the state master program.
- 26 4. "Agency consultation" means consultation with state or federal agencies,
- 27 including but not limited to those listed below, for the intended purposes.
- 28 "Agency consultation" does not mean "Endangered Species Section 7
- 29 Consultation."
 - 30 a. Washington Department of Fish and Wildlife and/or the U. S. Fish and
 - 31 Wildlife Service for the purpose of making a preliminary
 - 32 determination regarding the presence of priority habitats and species
 - 33 and the potential impacts of a development proposal on such habitats
 - 34 and species.
 - 35 b. The Washington State Department of Natural Resources Natural
 - 36 Heritage Program for the purpose of making a preliminary
 - 37 determination regarding impacts of a development proposal on rare or
 - 38 sensitive plant and animal species associated with wetlands and
 - 39 aquatic ecosystems.

- 1 c. The Washington State Department of Ecology for the purpose of
2 making a preliminary determination regarding impacts of a
3 development proposal on wetlands and aquatic ecosystems.
- 4 d. The Washington State Department of Ecology for the purpose of
5 making a preliminary determination regarding impacts of a
6 development on groundwater resources and aquifer recharge areas.
- 7 e. The Washington State Department of Natural Resources Division of
8 Geology and Earth Science for the purpose of making a preliminary
9 determination regarding geologically hazardous areas, especially
10 earthquakes and seismic activity.
- 11 f. The Natural Resource Conservation Service for the purpose of making
12 a preliminary determination regarding geologically hazardous areas as
13 they pertain to slope, soil type, other soil characteristics, and other
14 erosive properties of soils.
- 15 5. "Agricultural activities" means agricultural uses and practices including, but
16 not limited to: Producing, breeding, or increasing agricultural products;
17 rotating and changing agricultural crops; allowing land used for agricultural
18 activities to lie fallow in which it is plowed and tilled but left unseeded;
19 allowing land used for agricultural activities to lie dormant as a result of
20 adverse agricultural market conditions; allowing land used for agricultural
21 activities to lie dormant because the land is enrolled in a local, state, or federal
22 conservation program, or the land is subject to a conservation easement;
23 conducting agricultural operations; maintaining, repairing, and replacing
24 agricultural equipment; maintaining, repairing, and replacing agricultural
25 facilities, provided that the replacement facility is no closer to the shoreline
26 than the original facility; and maintaining agricultural lands under production
27 or cultivation. Also see definition of "New Agricultural Activities" below.
- 28 6. "Agricultural products" includes but is not limited to horticultural, viticultural,
29 floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed,
30 and apiary products; feed or forage for livestock; Christmas trees; hybrid
31 cottonwood and similar hardwood trees grown as crops and harvested within
32 twenty years of planting; and livestock including both the animals themselves
33 and animal products including but not limited to meat, upland finfish, poultry
34 and poultry products, and dairy products.
- 35 7. "Agricultural equipment" includes, but is not limited to:
36 a. The following used in agricultural operations: Equipment; machinery;
37 constructed shelters, buildings, and ponds; fences; upland finfish
38 rearing facilities; water diversion, withdrawal, conveyance, and use
39 equipment and facilities including but not limited to pumps, pipes,
40 tapes, canals, ditches, and drains; corridors and facilities for
41 transporting personnel, livestock, and equipment to, from, and within
42 agricultural lands; farm residences and associated equipment, lands,

- 1 and facilities; and roadside stands and on-farm markets for marketing
2 fruit or vegetables.
- 3 8. "Agricultural facilities". See "Agricultural equipment."
- 4 9. "Agricultural land" means those specific land areas on which agriculture
5 activities are conducted as of the date of adoption of a local master program
6 pursuant to these guidelines as evidenced by aerial photography or other
7 documentation. After the effective date of the master program land converted
8 to agricultural use is subject to compliance with the requirements of the
9 master program.
- 10 10. "Alteration," for purposes of applying Article V – Critical Areas, means any
11 human-induced change in an existing condition of a critical area or its buffer.
12 Alterations include, but are not limited to: grading, filling, dredging,
13 channelizing, clearing (vegetation), applying pesticides, discharging waste,
14 construction, compaction, excavation, modifying for stormwater management,
15 relocating, or other activities that change the existing landform, vegetation,
16 hydrology, wildlife, or habitat value, of critical areas.
- 17 11. "Amendment" means a revision, update, addition, deletion, and/or
18 reenactment to an existing shoreline master program.
- 19 12. "Applicant" means a person who files an application for a permit under this
20 SMP and who is either the owner of the land on which that proposed activity
21 would be located, a contract purchaser, or the authorized agent of such a
22 person.
- 23 13. "Approval" means an official action by a local government legislative body
24 agreeing to submit a proposed shoreline master program or amendments to the
25 Department of Ecology for review and official action pursuant to this chapter;
26 or an official action by the Department of Ecology to make a local
27 government shoreline master program effective, thereby incorporating the
28 approved shoreline master program or amendment into the state master
29 program.
- 30 14. "Aquifer recharge area" means an area that, due to the presence of certain
31 soils, geology, and surface water, acts to recharge ground water by
32 percolation.
- 33 15. "Area of special flood hazard" means the land in the floodplain within a
34 community subject to a one percent or greater chance of flooding in any given
35 year.
- 36 16. "Assessed value" means assessed valuation shall be as established by the King
37 Town assessor's office, unless otherwise provided by a market appraisal
38 institute (MAI) appraisal.
- 39 17. "Associated wetlands" are those wetlands which are in proximity to, and
40 either influence or are influenced by, a stream subject to the Act.

- 1 18. "Average grade level" means the average of the natural or existing topography
2 of the portion of the lot, parcel, or tract of real property which will be directly
3 under the proposed building or structure: In the case of structures to be built
4 over water, average grade level shall be the elevation of the ordinary high
5 water mark. Calculation of the average grade level shall be made by averaging
6 the ground elevations at the midpoint of all exterior walls of the proposed
7 building or structure.
- 8 19. "Base flood" means a flood having a one percent chance of being equaled or
9 exceeded in any given year. Also referred to as the "100-year flood." "Base
10 flood elevation" means the water surface elevation of the base flood. It shall
11 be referenced to the North American Vertical Datum of 1988 (NAVD).
- 12 20. "Basement" means any area of a building having its floor subgrade (below
13 ground level) on all sides.
- 14 21. "Best management practices" (BMPs) means conservation practices or
15 systems of practice and management measures that:
- 16 a. Control soil loss and reduce water quality degradation caused by high
17 concentrations of nutrients, animal waste, toxics, and sediment;
- 18 b. Minimize adverse impacts on surface water and ground water flow,
19 circulation patterns, and the chemical, physical, and biological
20 characteristics of wetlands;
- 21 c. Protect trees and vegetation designated to be retained during and
22 following site construction; and
- 23 d. Provides standards for proper use of chemical herbicides within
24 critical areas.
- 25 22. "Buffer" means the zone contiguous with a critical area that is required for the
26 continued maintenance, function, and structural stability of the critical area.
- 27 23. "Building setback line (BSBL)" means a line beyond which the foundation of
28 a structure shall not extend.
- 29 24. "Caliper" means the American Association of Nurserymen standard for trunk
30 measurement of nursery stock. Caliper of the trunk shall be the trunk diameter
31 measured six inches above the ground for up to and including four-inch
32 caliper size and 12 inches above the ground for larger sizes
- 33 25. "Channel migration zone (CMZ)" means the area along a river within which
34 the channel(s) can be reasonably predicted to migrate over time as a result of
35 natural and normally occurring hydrological and related processes when
36 considered with the characteristics of the river and its surroundings. "Town"
37 means Town of Krupp.
- 38 26. "Clearing" means the cutting, killing, grubbing, or removing of vegetation or
39 other organic material by physical, mechanical, chemical, or any other similar
40 means.

- 1 27. "Cluster" means a group of three or more significant trees with overlapping or
2 touching crowns.
- 3 28. "Community access" means a shoreline access available to a group or
4 community (e.g. home owners association) which may not be accessible to
5 general public.
- 6 29. "Compensation project" means actions specifically designed to replace
7 project-induced critical area and buffer losses. Compensation project design
8 elements may include, but are not limited to, land acquisition, planning,
9 construction plans, monitoring, and contingency actions.
- 10 30. "Compensatory mitigation" means types of mitigation used to replace project-
11 induced critical area and buffer losses or impacts.
- 12 31. "Concentrated animal feeding operation (CAFO)" means a Department of
13 Ecology-regulated and permitted area where animals (other than aquatic
14 animals) have been, are, or will be stabled or confined and fed or maintained
15 for a total of 45 days or more in any 12-month period. The CAFO permit does
16 not automatically kick in until a facility has a certain number of nonaquatic
17 animals (i.e., 1,000 cattle or 700 dairy cows). Smaller facilities may also be
18 regulated if they are discharging to a waterbody.
- 19 32. "Critical aquifer recharge area (CARA)" means areas designated by WAC
20 365-190-080(2) that are determined to have critical recharging effect on
21 aquifers used for potable water as defined by WAC 365-190-030(2).
- 22 33. "Critical facility" means a facility for which even a slight chance of impact
23 from a hazard event might be too great. Critical facilities include, but are not
24 limited to, schools, nursing homes, hospitals, police, fire and emergency
25 installations, and installations that produce, use, or store hazardous materials
26 or hazardous waste.
- 27 34. "Critical areas" include the following areas and ecosystems: aquifer recharge
28 areas (i.e., areas with a critical recharging effect on aquifers used for potable
29 water); fish and wildlife habitat conservation areas; frequently flooded areas;
30 geologically hazardous areas; and wetlands.
- 31 35. "Crown" means the area of a tree containing leaf- or needle-bearing branches.
- 32 36. "Data Maps" means that series of maps maintained by the Town of Hartline
33 for the purpose of graphically depicting the boundaries of resource lands and
34 critical areas.
- 35 37. "Developable area" means a site or portion of a site that may be utilized as the
36 location of development, in accordance with the rules of this SMP.
- 37 38. "Development" means a use consisting of the construction or exterior
38 alteration of structures; dredging; drilling; dumping; filling; removal of any
39 sand, gravel, or minerals; bulk heading; driving of piling; placing of
40 obstructions; or any project of a permanent or temporary nature which

- 1 interferes with the normal public use of the surface of the waters overlying
2 lands subject to the act at any stage of water level.
- 3 39. "Development Application" means an application tendered under the
4 provision of subdivision and zoning ordinances for a conditional use permit,
5 rezone or planned development, or an application submitted pursuant to the
6 subdivision and zoning ordinance for a preliminary major subdivision or short
7 plat.
- 8 40. "Development permit" means any permit issued by the Town of Krupp, or
9 other authorized agency, for construction, land use, or the alteration of land.
- 10 41. "DSH" means the diameter at standard height; the diameter of the trunk
11 measured 54 inches (4.5 feet) above grade.
- 12 42. "Ecological functions" or "shoreline functions" means the work performed or
13 role played by the physical, chemical, and biological processes that contribute
14 to the maintenance of the aquatic and terrestrial environments that constitute
15 the shoreline's natural ecosystem.
- 16 43. "Ecology" means the Washington State Department of Ecology.
- 17 44. "Ecosystem-wide processes" means the suite of naturally occurring physical
18 and geologic processes of erosion, transport, and deposition; and specific
19 chemical processes that shape landforms within a specific shoreline ecosystem
20 and determine both the types of habitat and the associated ecological
21 functions.
- 22 45. "Erosion" means the process by which soil particles are mobilized and
23 transported by natural agents such as wind, rain, frost action, or stream flow.
- 24 46. "Erosion hazard area" means those areas that, because of natural
25 characteristics including vegetative cover, soil texture, slope gradient, and
26 rainfall patterns, or human-induced changes to such characteristics, are
27 vulnerable to erosion.
- 28 47. "Feasible" means, for the purpose of this chapter, that an action, such as a
29 development project, mitigation, or preservation requirement, meets all of the
30 following conditions: (a) The action can be accomplished with technologies
31 and methods that have been used in the past in similar circumstances, or
32 studies or tests have demonstrated in similar circumstances that such
33 approaches are currently available and likely to achieve the intended results;
34 (b) The action provides a reasonable likelihood of achieving its intended
35 purpose; and (c) The action does not physically preclude achieving the
36 project's primary intended legal use. In cases where these guidelines require
37 certain actions unless they are infeasible, the burden of proving infeasibility is
38 on the applicant. In determining an action's infeasibility, the reviewing agency
39 may weigh the action's relative public costs and public benefits, considered in
40 the short- and long-term time frames.

- 1 48. “FEMA – Federal Emergency Management Agency” means the agency that
2 oversees the administration of the National Flood Insurance Program (44
3 CFR).
- 4 49. "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining
5 structure, or other material to an area waterward of the OHWM, in wetlands,
6 or on shorelands in a manner that raises the elevation or creates dry land.
- 7 50. “Fish and wildlife habitat conservation areas” means areas necessary for
8 maintaining species in suitable habitats within their natural geographic
9 distribution so that isolated subpopulations are not created as designated by
10 WAC 365-190-080(5). These areas include:
- 11 a. Federally designated endangered, threatened and sensitive species.
12 Areas with which federally designated endangered, threatened and
13 sensitive species have a primary association. Federally designated
14 endangered and threatened species are those fish and wildlife species
15 identified by the U.S. Fish and Wildlife Service and the National
16 Marine Fisheries Service that are in danger of extinction or threatened
17 to become endangered. The U.S. Fish and Wildlife Service and the
18 National Marine Fisheries Service should be consulted for current
19 listing status.
- 20 b. State designated endangered, threatened and sensitive species. Areas
21 with which state designated endangered, threatened and sensitive
22 species have a primary association.
- 23 c. State designated endangered, threatened, and sensitive species are
24 those fish and wildlife species native to the state of Washington
25 identified by the Washington Department of Fish and Wildlife, that are
26 in danger of extinction, threatened to become endangered, vulnerable,
27 or declining and are likely to become endangered or threatened in a
28 significant portion of their range within the state without cooperative
29 management or removal of threats. State designated endangered,
30 threatened, and sensitive species are periodically recorded in WAC
31 232-12-014 (state endangered species) and WAC 232-12-011 (state
32 threatened and sensitive species). The state Department of Fish and
33 Wildlife maintains the most current listing and should be consulted for
34 current listing status.
- 35 d. State Priority Habitats and Areas Associated With State Priority
36 Species. Priority habitats and species are considered to be priorities for
37 conservation and management. Priority species require protective
38 measures for their perpetuation due to their population status,
39 sensitivity to habitat alteration, and/or recreational, commercial, or
40 tribal importance. Priority habitats are those habitat types or elements
41 with unique or significant value to a diverse assemblage of species. A
42 priority habitat may consist of a unique vegetation type or dominant
43 plant species, a described successional stage, or a specific structural

- 1 element. Priority habitats and species are identified by the state
2 Department of Fish and Wildlife.
- 3 e. Habitats and Species of Local Importance. Habitats and species of
4 local importance are those identified by the Town, including but not
5 limited to those habitats and species that, due to their population status
6 or sensitivity to habitat manipulation, warrant protection. Habitats may
7 include a seasonal range or habitat element with which a species has a
8 primary association, and which, if altered, may reduce the likelihood
9 that the species will maintain and reproduce over the long-term.
- 10 f. All areas within the town meeting the definition of one or more critical
11 areas defined above are hereby designated critical areas and are subject
12 to the provisions of the SMP.
- 13 51. "Flood event" means any rise in the surface elevation of a water body to a
14 level that causes the inundation or submersion of areas normally above the
15 Ordinary High Water Mark.
- 16 52. "Flood" or "flooding" mean a general and temporary condition of partial or
17 complete inundation of normally dry land areas from the overflow of inland
18 waters and/or the unusual and rapid accumulation of runoff or surface waters
19 from any source.
- 20 53. "Flood hazard area" means any area subject to inundation by the base flood or
21 risk from channel migration including, but not limited to, an aquatic area,
22 wetland, or closed depression.
- 23 54. "Flood insurance rate map (FIRM)" means the official map on which the
24 Federal Insurance and Mitigation Administration has delineated both the areas
25 of special flood hazard and the risk premium zones (44 CFR Part 59).
- 26 55. "Flood insurance study" means the official report provided by the Federal
27 Insurance and Mitigation Administration that includes the flood profiles, the
28 FIRM, and the water surface elevation of the base flood (44 CFR Part 59).
- 29 56. "Flood protection elevation" means an elevation that is one foot or more
30 above the base flood elevation.
- 31 57. "Flood plain" is synonymous with one hundred-year floodplain and means
32 that land area susceptible to inundation with a one percent chance of being
33 equaled or exceeded in any given year. The limit of this area shall be based
34 upon flood ordinance regulation maps or a reasonable method which meets
35 the objectives of the act.
- 36 58. "Floodproofing" means adaptations that ensure a structure is substantially
37 resistant to the passage of water below the flood protection elevation and
38 resists hydrostatic and hydrodynamic loads and effects of buoyancy.
- 39 59. "Floodway" means the area, as identified in a master program, that either: (i)
40 Has been established in federal emergency management agency flood
41 insurance rate maps or floodway maps; or (ii) consists of those portions of a

1 river valley lying stream ward from the outer limits of a watercourse upon
2 which flood waters are carried during periods of flooding that occur with
3 reasonable regularity, although not necessarily annually, said floodway being
4 identified, under normal condition, by changes in surface soil conditions or
5 changes in types or quality of vegetative ground cover condition, topography,
6 or other indicators of flooding that occurs with reasonable regularity, although
7 not necessarily annually. Regardless of the method used to identify the
8 floodway, the floodway shall not include those lands that can reasonably be
9 expected to be protected from flood waters by flood control devices
10 maintained by or maintained under license from the federal government, the
11 state, or a political subdivision of the state.

12 60. "Floodway dependent structure," for purposes of applying Article V – Critical
13 Areas, means structures such as, but not limited to, dams, levees and pump
14 stations, stream bank stabilization, and related recreational structures, bridge
15 piers and abutments, and fisheries enhancement or stream restoration projects.

16 61. "Formation" means an assemblage of earth materials grouped together into a
17 unit that is convenient for description or mapping.

18 62. "Formation, confining" means the relatively impermeable formation
19 immediately overlaying a confined aquifer.

20 63. "Frequently flooded areas" means lands in the floodplain subject to a one
21 percent or greater chance of flooding in any given year and those lands that
22 provide important flood storage, conveyance, and attenuation functions, as
23 determined by the Shoreline Administrator, in accordance with WAC 365-
24 190-080(3). Classifications of frequently flooded areas include, at a minimum,
25 the 100-year floodplain designations of the Federal Emergency Management
26 Agency (FEMA) and National Flood Insurance Protection (NFIP).

27 64. "Functions" and "values," for purposes of applying Article V – Critical Areas,
28 mean the beneficial roles served by critical areas, including, but not limited to,
29 water quality protection and enhancement, fish and wildlife habitat, food
30 chain support, conveyance and attenuation, ground water recharge and
31 discharge, erosion control, and recreation. "Functions" and "values" may be
32 considered independently, with functions being measured indicators such as
33 water quality, hydrologic functions, and habitat functions and values being
34 non-measured indicators such as local importance, potential qualities, or
35 recreational benefits.

36 65. "Geologically hazardous areas" means areas susceptible to erosion, sliding,
37 earthquake, or other geological events. They pose a threat to the health and
38 safety of citizens when incompatible commercial, residential, or industrial
39 development is sited in areas of significant hazard.

40 66. "Geotechnical report" or "geotechnical analysis" means a scientific study or
41 evaluation conducted by a qualified expert that includes a description of the
42 ground and surface hydrology and geology, the affected land form and its
43 susceptibility to mass wasting, erosion, and other geologic hazards or

1 processes, conclusions and recommendations regarding the effect of the
2 proposed development on geologic conditions, the adequacy of the site to be
3 developed, the impacts of the proposed development, alternative approaches
4 to the proposed development, and measures to mitigate potential site-specific
5 and cumulative geological and hydrological impacts of the proposed
6 development, including the potential adverse impacts on adjacent and down-
7 current properties. Geotechnical reports shall conform to accepted technical
8 standards and must be prepared by qualified professional engineers or
9 geologists who have professional expertise about the regional and local
10 shoreline geology and processes.

11 67. "Grading" means the movement or redistribution of the soil, sand, rock,
12 gravel, sediment, or other material on a site in a manner that alters the natural
13 contour of the land.

14 68. "Groin" means a barrier type of structure extending from the stream bank into
15 a waterbody for the purpose of the protection of a shoreline and adjacent
16 uplands by influencing the movement of water or deposition of materials.

17 69. "Ground cover" means all types of vegetation other than trees.

18 70. "Guidelines" means those standards adopted by the department to implement
19 the policy of chapter 90.58 RCW for regulation of use of the shorelines of the
20 state prior to adoption of master programs. Such standards shall also provide
21 criteria for local governments and the department in developing and amending
22 master programs.

23 71. "Hazard areas" means areas designated as geologically hazardous areas due to
24 potential for erosion, landslide, seismic activity, mine collapse, or other
25 geologically hazardous conditions, including steep slopes.

26 72. "Hazard tree" means any tree with any significant structural defect, disease,
27 extreme size or combinations of these which make it subject to failure, as
28 determined by the Shoreline Administrator or her/his designee.

29 73. "Hazardous substance(s)" means:
30 a. A hazardous substance as defined by Section 101(14) of the
31 Comprehensive Environmental Response, Compensation, and Liability
32 Act (CERCLA); any substance designated pursuant to Section
33 311(b)(2)(A) of the Clean Water Act (CWA); any hazardous waste
34 having the characteristics identified under or listed pursuant to Section
35 3001 of the Solid Waste Disposal Act (but not including any waste the
36 regulation of which under the Solid Waste Disposal Act has been
37 suspended by Act of Congress); any toxic pollutant listed under
38 Section 307(a) of the CWA; or any imminently hazardous chemical
39 substance or mixture with respect to which the United States
40 Environmental Protection Agency has taken action pursuant to Section
41 7 of the Toxic Substances Control Act;

- 1 b. Hazardous substances that include any liquid, solid, gas, or sludge,
2 including any material, substance, product, commodity, or waste,
3 regardless of quantity, that exhibits any of the physical, chemical, or
4 biological properties described in WAC 173-303-090, 173-303-102, or
5 173-303-103.
- 6 74. “High-intensity land use” means land uses consisting of commercial, urban,
7 industrial, institutional, retail, residential with more than one unit per acre,
8 agricultural (dairies, nurseries, raising and harvesting crops, requiring annual
9 tilling, raising and maintaining animals), high-intensity recreation (golf
10 courses, ball fields), and hobby farms.
- 11 75. “Heavy equipment” means such construction machinery as backhoes, treaded
12 tractors, dump trucks, and front-end loaders.
- 13 76. “Hydraulic project approval (HPA)” means a permit issued by the state of
14 Washington’s Department of Fish and Wildlife for modification to waters of
15 the state in accordance with Chapter 75.20 RCW.
- 16 77. “Impervious surface area” means any non-vertical surface artificially covered
17 or hardened so as to prevent or impede the percolation of water into the soil
18 mantle including, but not limited to, roof tops, swimming pools, paved or
19 graveled roads and walkways or parking areas, and excluding landscaping and
20 surface water retention/detention facilities.
- 21 78. “In-stream structures” function for the impoundment, diversion, or use of
22 water for hydroelectric generation and transmission (including both public and
23 private facilities), flood control, irrigation, water supply (both domestic and
24 industrial), recreation, or fisheries enhancement
- 25 79. “Isolated wetland” means those wetlands and their buffers that are outside of
26 the following critical areas and their buffers, where applicable: lake, river,
27 stream, or wetland. Isolated wetlands have no contiguous hydric soil or
28 hydrophytic vegetation between the wetland and any surface water.
- 29 80. “Landslide” means episodic down slope movement of a mass of soil or rock
30 that includes, but is not limited to, rock falls, slumps, mudflows, and earth
31 flows.
- 32 81. “Landslide hazard areas” means areas that are potentially subject to risk of
33 mass movement due to a combination of geologic, topographic, and
34 hydrologic factors.
- 35 82. “Low-intensity land use” includes, but is not limited to, forestry and open
36 space (such as passive recreation and natural resources preservation).
- 37 83. "May" means the action is acceptable, provided it conforms to the provisions
38 of this chapter.
- 39 84. “Mine Hazard Area” - areas underlain by, adjacent to, or affected by, mine
40 workings such as adits, gangways, tunnels, drifts or air shafts.

- 1 used for a conforming use, but that do not meet standards for the following
2 are considered conforming structures: setbacks, buffers, or yards; area; bulk;
3 height; or density.
- 4 94. "New construction" means structures for which the start of construction
5 commenced on or after the effective date of the ordinance codified in this
6 SMP.
- 7 95. "Non-water-oriented uses" means those uses that are not water-dependent,
8 water-related, or water-enjoyment.
- 9 96. "Normal maintenance" means those usual acts that are necessary to prevent a
10 property's decline, lapse, or cessation from a lawfully established condition.
- 11 97. "Normal repair" means to restore a structure or development to a state
12 comparable to its original condition including, but not limited to, its size,
13 shape, configuration, location and external appearance, within a reasonable
14 period after decay or partial destruction, except where repair causes
15 substantial adverse impacts on shoreline resources or environment.
16 Replacement of a structure or development may be authorized as repair where
17 such replacement is the common method of repair for the type of structure or
18 development, and the replacement structure or development is comparable to
19 the original structure or development including, but not limited to, its size,
20 shape, configuration, location and external appearance and the replacement
21 does not cause substantial adverse impacts on shoreline resources or
22 environment.
- 23 98. "Ordinary high water mark (OHWM)" means that mark that will be found by
24 examining the bed and banks and ascertaining where the presence and action
25 of waters are so common and usual, and so long continued in all ordinary
26 years, as to mark upon the soil a character distinct from that of the abutting
27 upland, in respect to vegetation as that condition exists on June 1, 1971, as it
28 may naturally change or change through Crab Creek hydrology thereafter, or
29 as it may change thereafter in accordance with permits issued by a local
30 government or the department. Where the OHWM cannot be found, it shall be
31 the line of mean high water. For braided streams, the OHWM is found on the
32 banks forming the outer limits of the depression within which the braiding
33 occurs.
- 34 99. "Practical alternative" means an alternative that is available and capable of
35 being carried out after taking into consideration cost, existing technology, and
36 logistics in light of overall project purposes, and having less impact on critical
37 areas.
- 38 100. "Primitive trail" means unimproved, unpaved but physically defined pathway
39 for non-motorized movement.
- 40 101. "Priority habitat" means a habitat type with unique or significant value to one
41 or more species. An area classified and mapped as priority habitat must have
42 one or more of the following attributes: • Comparatively high fish or wildlife
43 density; • Comparatively high fish or wildlife species diversity; • Fish

1 spawning habitat; • Important wildlife habitat; • Important fish or wildlife
2 seasonal range; • Important fish or wildlife movement corridor; • Rearing and
3 foraging habitat; • Refugia habitat; • Limited availability; • High vulnerability
4 to habitat alteration; • Unique or dependent species; or. A priority habitat may
5 be described by a unique vegetation type or by a dominant plant species that is
6 of primary importance to fish and wildlife. A priority habitat may also be
7 described by a successional stage (such as, old growth and mature forests).
8 Alternatively, a priority habitat may consist of a specific habitat element (such
9 as caves, snags) of key value to fish and wildlife. A priority habitat may
10 contain priority and/or non-priority fish and wildlife.

11 102. "Priority species" means species requiring protective measures and/or
12 management guidelines to ensure their persistence at genetically viable
13 population levels. Priority species are those that meet any of the criteria listed
14 below.

15 a. Criterion 1. State-listed or state proposed species. State-listed species
16 are those native fish and wildlife species legally designated as
17 endangered (WAC 232-12-014), threatened (WAC 232-12-011), or
18 sensitive (WAC 232-12-011). State proposed species are those fish and
19 wildlife species that will be reviewed by the department of fish and
20 wildlife (POL-M-6001) for possible listing as endangered, threatened,
21 or sensitive according to the process and criteria defined in WAC 232-
22 12-297.

23 b. Criterion 2. Vulnerable aggregations. Vulnerable aggregations include
24 those species or groups of animals susceptible to significant population
25 declines, within a specific area or statewide, by virtue of their
26 inclination to congregate.

27 c. Criterion 3. Species of recreational, commercial, and/or tribal
28 importance. Native and nonnative fish, shellfish, and wildlife species
29 of recreational or commercial importance and recognized species used
30 for tribal ceremonial and subsistence purposes that are vulnerable to
31 habitat loss or degradation.

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

34 103. "Provisions" means policies, regulations, standards, guideline criteria or
35 environment designations.

36 104. "Public Access" means both physical and visual access. Examples are listed
37 below:

38 a. Visual Access. Visual public access may consist of view corridors,
39 viewpoints, or other means of visual approach to public waters.

40 b. Physical Access. Physical public access may consist of a dedication of
41 land or easement and a physical improvement in the form of a

- 1 walkway, trail, bikeway, park, canoe and kayak hand launch site, or
2 other area serving as a means of physical approach to public waters.
- 3 105. “Public agency” means every Town, Town, state, or federal office, every
4 officer, every institution, whether educational, correctional, or other, and
5 every department, division, board, and commission that provides services or
6 recommendations to the public or other such agencies.
- 7 106. “Public utility” means a public service corporation performing some public
8 service subject to special governmental regulations, or a governmental agency
9 performing similar public services, either of which are paid for directly by the
10 recipients thereof. Such services shall include, but are not limited to, water
11 supply, electric power, gas, and transportation for persons and freight.
- 12 107. “Qualified professional” means a person with experience and training in the
13 pertinent discipline, and who is a qualified expert with expertise appropriate
14 for the relevant critical area or shoreline subject. A qualified professional must
15 have obtained a B.S., B.A. or equivalent degree or certification in biology,
16 engineering, environmental studies, fisheries, geomorphology, landscape
17 architecture, forestry or related field, and two years of related work
18 experience.
- 19 a. A qualified professional for wildlife, habitats or wetlands must have a
20 degree in biology, zoology, ecology, fisheries, or related field, and
21 professional experience in Washington State.
- 22 b. A qualified professional for a geological hazard must be a professional
23 engineer or geologist, licensed in the state of Washington.
- 24 c. A qualified professional for critical aquifer recharge areas means a
25 hydrogeologist, geologist, engineer, or other scientist with experience
26 in preparing hydrogeologic assessments.
- 27 d. A qualified professional for vegetation management must be a
28 registered landscape architect, certified arborist, biologist, or
29 professional forester with a corresponding degree or certification.
- 30 108. “Recreational development” means the modification of the natural or existing
31 environment to accommodate commercial and public facilities designed and
32 used to provide recreational opportunities to the public. Commercial
33 recreational development should be consistent with commercial development
34 defined herein.
- 35 109. “Recreational vehicle” means a vehicle designed primarily for recreational
36 camping, travel, or seasonal use that has its own mode of power or is mounted
37 on or towed by another vehicle, including, but not limited, to travel trailers,
38 folding camping trailer, truck camper, motor home, , and multi-use vehicles.
- 39 110. “Residential development” entails one or more buildings, structures, lots,
40 parcels or portions thereof that are designed, used or intended to be used as a
41 place of abode for human beings. These include single-family residences,
42 residential subdivisions, short residential subdivisions, attached dwellings, and

- 1 all accessory uses or structures normally associated with residential uses.
2 Accessory residential uses include, but are not limited to, garages, sheds,
3 tennis courts, swimming pools, parking areas, fences, cabanas, saunas and
4 guest cottages. Hotels, motels, dormitories or any other type of overnight or
5 transient housing are excluded from the residential category and must be
6 considered commercial uses depending on project characteristics.
- 7 111. "Restore", "Restoration" or "ecological restoration" means the reestablishment
8 or upgrading of impaired natural or enhanced ecological shoreline processes
9 or functions. This may be accomplished through measures including but not
10 limited to re-vegetation, removal of intrusive shoreline structures and removal
11 or treatment of toxic materials. Restoration does not imply a requirement for
12 returning the shoreline area to aboriginal or pre-European settlement
13 conditions.
- 14 112. "Riparian habitat" means areas adjacent to aquatic systems with flowing water
15 that contains elements of both aquatic and terrestrial ecosystems that mutually
16 influence each other.
- 17 113. "Salmonid" means a member of the fish family Salmonidae. In King Town,
18 Chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown,
19 rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly
20 Varden).
- 21 114. "Section 404 Permit" means a permit issued by the Army Corp of Engineers
22 for the placement of dredge or fill material waterward of the OHWM or
23 clearing in waters of the United States, including wetlands, in accordance with
24 33 United States Code (USC) Section 1344.
- 25 115. "Seismic hazard areas" means areas that are subject to severe risk of damage
26 as a result of earthquake-induced ground shaking, slope failure, settlement, or
27 soil liquefaction.
- 28 116. "Shall" means a mandate; the action must be done.
- 29 117. "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the
30 state" and "shorelands" as defined in RCW 90.58.030.
- 31 118. "Shoreline master program" or "master program" means the comprehensive
32 use plan for a described area, and the use regulations together with maps,
33 diagrams, charts, or other descriptive material and text, a statement of desired
34 goals, and standards developed in accordance with the policies enunciated in
35 RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a
36 shoreline master program for a Town or Town approved under chapter 90.58
37 RCW shall be considered an element of the Town or Town's comprehensive
38 plan. All other portions of the shoreline master program for a Town or Town
39 adopted under chapter 90.58 RCW, including use regulations, shall be
40 considered a part of the Town or Town's development regulations.
- 41 119. "Shoreline modifications" means those actions that modify the physical
42 configuration or qualities of the shoreline area, usually through the

- 1 construction of a physical element such as a dike, , weir, dredged basin, fill,
2 bulkhead, or other shoreline structure. They can include other actions, such as
3 clearing, grading, or application of chemicals.
- 4 120. “Shoreline stabilization” means actions taken to address erosion impacts to
5 property and dwellings, businesses, or structures caused by natural processes,
6 such as current, wind, or wave action. These actions include structural and
7 nonstructural methods. Nonstructural methods include building setbacks,
8 relocation of the structure to be protected, ground water management,
9 planning and regulatory measures to avoid the need for structural stabilization.
- 10 121. "Should" means that the particular action is required unless there is a
11 demonstrated, compelling reason, based on policy of the Shoreline
12 Management Act and this chapter, against taking the action.
- 13 122. “Significant tree” means any evergreen tree, other than holly, of at least 15
14 inches DSH and any deciduous tree, other than poplar trees, at least 12 inches
15 DSH. Poplar trees, holly, and other invasive trees of any size are not
16 considered significant trees.
- 17 123. "Significant vegetation removal" means the removal or alteration of trees,
18 shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical
19 means, or other activity that causes significant ecological impacts on functions
20 provided by such vegetation. The removal of invasive or noxious weeds does
21 not constitute significant vegetation removal. Tree pruning, not including tree
22 topping, where it does not affect ecological functions, does not constitute
23 significant vegetation removal.
- 24 124. “Snag” means the remaining trunk of a dying, diseased, or dangerous tree that
25 is reduced in height and stripped of all live branches
- 26 125. “Species and habitats of local importance” means those species that may not
27 be endangered, threatened, or critical from a state-wide perspective, but are of
28 local concern due to their population status, sensitivity to habitat
29 manipulation, or other educational, cultural, or historic attributes. These
30 species may be priority habits, priority species, and those habitats and species
31 identified in the critical areas code as having local importance (e.g., elk).
- 32 126. “Species, threatened and endangered” means those native species that are
33 listed by the State Department of Fish and Wildlife pursuant to RCW
34 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-
35 014), or that are listed as threatened or endangered under the federal
36 Endangered Species Act (16 U.S.C. 1533).
- 37 127. “Start of construction” means and includes substantial improvement, and
38 means the date the building permit was issued, provided the actual start of
39 construction, repair, reconstruction, placement, or other improvement was
40 within 180 days of the permit issuance date. For cumulative tracking, the
41 permit may extend beyond the specified time frame to the time of permit
42 completion. The actual start means either the first placement of permanent
43 construction of a structure on a site, such as the pouring of slab or footings,

- 1 the installation of piles, the construction of columns, or any work beyond the
2 stage of excavation, or the placement of a manufactured home on a
3 foundation. Permanent construction does not include land preparation, such as
4 clearing, grading, and filling, nor does it include the installation of streets
5 and/or walkways, nor does it include excavation for a basement, footings,
6 piers, or foundation or the erection of temporary forms, nor does it include the
7 installation on the property of accessory buildings, such as garages or sheds
8 not occupied as dwelling units or not part of the main structure. For a
9 substantial improvement, the actual start of construction means the first
10 alteration of any wall, ceiling, floor, or other structural part of a building,
11 whether or not that alteration affects the external dimensions of the building.
- 12 128. “Steep slopes” means those slopes (excluding Town-approved geotechnical
13 engineered slopes) 40 percent or steeper within a vertical elevation change of
14 at least 10 feet. A slope is defined by establishing its toe and top and is
15 measured by averaging the inclination over at least 10 feet of vertical relief.
- 16 129. “Stream” means any portion of a channel, bed, bank, or bottom waterward of
17 the ordinary high water line of waters of the state, including areas in which
18 fish may spawn, reside, or pass, and tributary waters with defined bed or
19 banks, which influence the quality of fish habitat downstream. This includes
20 watercourses which flow on an intermittent basis or which fluctuate in level
21 during the year and applies to the entire bed of such watercourse whether or
22 not the water is at peak level. This definition does not include irrigation
23 ditches, canals, storm water run-off devices, or other entirely artificial
24 watercourses, except where they exist in a natural watercourse that has been
25 altered by humans.
- 26 130. "Structure" means a permanent or temporary edifice or building, or any piece
27 of work artificially built or composed of parts joined together in some definite
28 manner, whether installed on, above, or below the surface of the ground or
29 water.
- 30 131. “Substantial damage” means damage of any origin sustained by a structure
31 whereby the cost of restoring the structure to its before-damaged condition
32 would equal or exceed 50 percent of the assessed value of the structure before
33 the damage occurred.
- 34 132. “Substantial improvement” means any repair, reconstruction, rehabilitation,
35 addition, or improvement of a building or structure, the cost of which exceeds
36 50 percent of the assessed value of the structure before the improvement or
37 repair is started. This term includes structures that have incurred “substantial
38 damage,” regardless of the actual repair work performed. The term can
39 exclude:
- 40 a. Any project for improvement of a structure to comply with existing
41 state or local health, sanitary, or safety code specifications that have
42 been identified by the local code enforcement or building official and
43 are the minimum necessary to assure safe living conditions; or

- 1 147. "Water-dependent use" means a use or portion of a use which cannot exist in a
2 location that is not adjacent to the water and which is dependent on the water
3 by reason of the intrinsic nature of its operations.
- 4 148. "Water-enjoyment use" means a recreational use or other use that facilitates
5 public access to the shoreline as a primary characteristic of the use; or a use
6 that provides for recreational use or aesthetic enjoyment of the shoreline for a
7 substantial number of people as a general characteristic of the use and which
8 through location, design, and operation ensures the public's ability to enjoy the
9 physical and aesthetic qualities of the shoreline. In order to qualify as a water-
10 enjoyment use, the use must be open to the general public and the shoreline-
11 oriented space within the project must be devoted to the specific aspects of the
12 use that fosters shoreline enjoyment.
- 13 149. "Water-oriented use" means a use that is water-dependent, water-related, or
14 water-enjoyment, or a combination of such uses.
- 15 150. "Water quality" means the physical characteristics of water within shoreline
16 jurisdiction, including water quantity, hydrological, physical, chemical,
17 aesthetic, recreation-related, and biological characteristics. Where used in this
18 chapter, the term "water quantity" refers only to development and uses
19 regulated under this chapter and affecting water quantity, such as
20 impermeable surfaces and storm water handling practices. Water quantity, for
21 purposes of this chapter, does not mean the withdrawal of ground water or
22 diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.
- 23 151. "Water-related use" means a use or portion of a use which is not intrinsically
24 dependent on a waterfront location but whose economic viability is dependent
25 upon a waterfront location because:
- 26 152. The use has a functional requirement for a waterfront location such as the
27 arrival or shipment of materials by water or the need for large quantities of
28 water; or
- 29 153. The use provides a necessary service supportive of the water-dependent uses
30 and the proximity of the use to its customers makes its services less expensive
31 and/or more convenient.
- 32 154. "Water resources inventory area (WRIA)" means one of 62 watersheds in the
33 state of Washington, each composed of the drainage areas of a stream or
34 streams, as established in Chapter 173-500 WAC as it existed on January 1,
35 1997.
- 36 155. "WDFW" means the Washington Department of Fish and Wildlife.
- 37 156. "Weir" means a structure generally built perpendicular to the shoreline for the
38 purpose of diverting water or trapping sediment or other moving objects
39 transported by water.
- 40 157. "Wetlands" are areas that are inundated or saturated by surface or ground
41 water at a frequency and duration sufficient to support, and that under normal
42 circumstances do support, a prevalence of vegetation typically adapted for life

1 in saturated soil conditions. Wetlands generally include swamps, marshes,
2 bogs and similar areas. Wetlands do not include those artificial wetlands
3 intentionally created from non-wetland sites, including, but not limited to,
4 irrigation and drainage ditches, grass-lined swales, canals, detention facilities,
5 wastewater treatment facilities, farm ponds, and landscape amenities, or those
6 wetlands created after July 1, 1990, that were unintentionally created as a
7 result of the construction of a road, street, or highway. Wetlands may include
8 those artificial wetlands intentionally created from non-wetland areas to
9 mitigate the conversion of wetlands.

10 **14.19.770 Shoreline Environment Designation Map**