

ELECTRIC CITY

DRAFT SHORELINE MASTER PROGRAM



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

2 **Introduction**

3 Electric City Shoreline Master Program intends to implement the requirements of the
4 Washington State Shoreline Management Act (SMA) (Revised Code of Washington (RCW
5 90.58). The SMA was enacted in 1971 to provide for the management and protection of
6 shorelines of the state by regulating development in the shoreline area. The goal of the SMA is
7 "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's
8 shorelines." (RCW 90.58.020) The SMA requires cities and counties to adopt a Shoreline
9 Master Program to regulate shoreline development and accommodate "all reasonable and
10 appropriate uses" consistent with "protection against adverse effects to the public health, the land
11 and its vegetation and wildlife, and the waters of the state and their aquatic life... and public
12 rights of 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 Electric City
15 Shoreline Master Program provides goals, policies and regulations for the development of the
16 City's shorelines.

17 **Relationship to GMA**

- 18 (1) 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 (2) The provisions of this program implement the requirements of the SMA. The City's
23 SMP is integrated with the City'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 City'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 City's development regulations required by the Growth Management Act, and be
28 part of the Unified Development Code.
- 29 (3) 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 City's Comprehensive
32 Growth Management Plan.
- 33 (4) 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 Electric City**

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.” Electric City shoreline jurisdiction includes shoreline along Banks Lake and
7 Osborn Bay. Banks Lake is a Shoreline of Statewide Significance because of its surface acreage
8 of one thousand acres or more measured at the ordinary high water mark.

9 **Development of Goals and Policies**

10 Goals express broad value statements that reflect the City’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 City’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 City’s SMP.

20 **Economic Development Element**

- 21 (1) Goal A: Support the development of water-oriented commercial services and
22 attractions that serve tourism and support the community’s economy and shoreline
23 environment.
- 24 (2) Goal B: Promote economic growth that conserves natural resources and open spaces,
25 and maintains environmental quality.
- 26 (3) General Economic Development Policies:
- 27 (a) Promote shoreline areas of Electric City as an economic asset to the
28 community.
- 29 (b) Promote recreational opportunities along shoreline that are compatible with or
30 complement the character and existing uses of critical areas and shoreline.
- 31 (c) Provide for siting and development of Master Planned Resorts along shoreline
32 when appropriate.
- 33 (d) Give first preference to water-dependent uses, second preference to water-
34 related or water-enjoyment economic activities, and last preference to non-
35 water-oriented uses in areas where limited commercial development space
36 along shorelines is in demand for a number of competing uses.
- 37 (e) Ensure that any economic activity taking place along the shorelines operates
38 without causing irreparable harm to the quantity of the site’s environment or
39 adjacent shorelands.

- 1 (f) Where possible, developments are encouraged to incorporate low impact
2 development techniques into new and existing projects and integrate
3 architectural and landscape elements that recognize the lake environment.
- 4 (g) Require non-water-oriented commercial or recreational development provide
5 for ecological restoration and public access as appropriate
- 6 (4) Commercial Development Policies:
- 7 (a) Assure that commercial uses will not result in a net loss of shoreline
8 ecological functions or have significant adverse impacts on navigation,
9 recreation and public access.
- 10 (b) Promote water-oriented commercial uses in shoreline areas that support
11 recreation and tourism.
- 12 (c) Encourage multi-use commercial projects that include some combination of
13 ecological restoration, public access, open space, and recreation.

14 **Public Access and Recreation Element**

- 15 (1) Goal A: Implement a public access system that increases the amount and diversity of
16 public access consistent with private property rights, public safety and the natural
17 shoreline character.
- 18 (2) Goal B: Maximize the positive impact of tourism and recreational development.
- 19 (3) Policies:
- 20 (a) Enhance recreational opportunities and public access to open spaces and
21 shoreline areas.
- 22 (b) Promote visitor opportunities that are compatible with or complement the
23 character and existing uses of critical areas and other existing land uses.
- 24 (c) Provide for siting and development of Master Planned Resorts along
25 shoreline.
- 26 (d) Identify opportunities for public access on publicly owned shorelines.
27 Preserve, maintain and enhance public access afforded by shoreline street
28 ends, public utilities and rights-of-way.
- 29 (e) Provide physical and visual public access in the shoreline jurisdiction in
30 association with the following uses when feasible: residential developments
31 with five or more dwellings; commercial development; and public agency
32 recreational development.
- 33 (f) Provide public access and interpretive displays as part of publicly funded
34 restoration and enhancement projects where significant ecological impacts are
35 addressed.
- 36 (g) Allow for passive and active shoreline recreation that emphasizes location
37 along shorelines in association with the City's and other public agencies parks,
38 recreation, wildlife habitat and open space plans.

- 1 (h) Promote recreational developments and plans that conserve the shoreline’s
2 natural character, ecological functions, and processes.
- 3 (i) Give water-dependent recreation priority over water-enjoyment recreation
4 uses. Give water-enjoyment recreational uses priority over non-water-oriented
5 recreational uses.
- 6 (j) Integrate and link recreation facilities with linear systems, such as walking
7 trail, bicycle paths, easements, and scenic drives where feasible.
- 8 (k) Promote non-intensive recreational uses which avoid adverse effects to the
9 hydrology and avoid damage to the shoreline environment through
10 modifications such as structural shoreline stabilization or native vegetation
11 removal.

12 **Circulation Element**

- 13 (1) Goal A: Implement multi-modal transportation improvements that provide for
14 mobility and access and that minimize adverse impacts on the shoreline environment.
- 15 (2) Policies:
 - 16 (a) Provide safe, reasonable, and adequate circulation systems to shorelines where
17 routes will minimize adverse effects on unique or fragile shoreline features
18 and existing ecological systems, while contributing to the functional and
19 visual enhancement of the shoreline.
 - 20 (b) Within the shoreline jurisdiction, locate land circulation systems including
21 parking that are not shoreline dependent as far from the land-water interface
22 as practicable to reduce interference with either natural shoreline resources or
23 other appropriate shoreline uses.
 - 24 (c) Allow for maintenance and improvements to existing roads, trails and parking
25 areas. Allow for necessary new roads, trails and parking areas where other
26 locations outside of shoreline jurisdiction are not feasible.
 - 27 (d) Plan and develop a circulation network which is compatible with the shoreline
28 environment, and respects and protects ecological and aesthetic values in the
29 shoreline of the state as well as private property rights.
 - 30 (e) Consider pedestrian, bicycle, and other applicable modes of transportation
31 where appropriate in circulation planning. Circulation planning and projects
32 should support existing and proposed shoreline uses that are consistent with
33 the SMP.
 - 34 (f) Promote existing transportation corridors for reuse for water-dependent uses
35 or public access when they are abandoned.
 - 36 (g) Encourage relocation or improvement of those circulation elements that are
37 functionally or aesthetically disruptive to the shoreline, public waterfront
38 access, and ecological functions.

- 1 (h) Plan parking to achieve optimum use. Where possible, parking should serve
2 more than one use (e.g. serving recreational use on weekends, commercial
3 uses on weekdays).
- 4 (i) Encourage low-impact parking facilities, such as those with permeable
5 pavements and bio-swales.
- 6 (j) Encourage the linkage of shoreline parks, recreation areas, and public access
7 points with linear systems, such as trails, bicycle paths, easements and/or
8 scenic drives.

9 **Shoreline Uses and Modifications Element**

- 10 (1) Goal A: Encourage shoreline development that recognizes Electric City's natural and
11 cultural values and its unique aesthetic qualities offered by its variety of shoreline
12 environment.
- 13 (2) Goal B: For shorelines of Banks Lake, a shoreline of state-wide significance (SSWS),
14 protection and management priorities are to:
 - 15 (a) Recognize and protect the state-wide interest over local interest;
 - 16 (b) Preserve the natural character of the shoreline;
 - 17 (c) Provide long-term over short-term benefit;
 - 18 (d) Protect the resources and ecology of shorelines;
 - 19 (e) Increase public access to publicly owned areas of shorelines; and
 - 20 (f) Increase recreational opportunities for the public in shoreline areas.
- 21 (3) General Policies:
 - 22 (a) 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 (b) 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 or federal navigational servitude, and treaty rights of
28 Indian tribes.
- 29 (4) Shoreline Environment Designations Policies:
 - 30 (a) Provide a comprehensive shoreline environment designation system to
31 categorize Electric City's shorelines into environments based upon the primary
32 characteristics of shoreline areas to guide the use and management of these
33 areas.
 - 34 (b) Assign appropriate environment designations for preservation of wildlife
35 habitat area, natural resources and public agency operations.
- 36 (5) Boating Facilities Policies:

- 1 (a) Locate and design boating facilities so that their structures and operations will
2 be compatible with the area affected such as environmental conditions,
3 shoreline configuration, access, and neighboring upland and aquatic uses.
- 4 (b) Require enhancement activities when substantial improvements or repair to
5 existing boating facilities is planned.
- 6 (c) Boating facilities that minimize the amount of shoreline modification are
7 preferred.
- 8 (d) Boating facilities should provide physical and visual public shoreline access
9 and provide for multiple use, including water-related use, to the extent
10 compatible with shoreline ecological functions and processes and adjacent
11 shoreline use.
- 12 (e) Boating facilities should be located and designed to avoid adverse effects
13 upon lake, and nearshore processes such as erosion, littoral or riparian
14 transport, and accretion, and, should where feasible, enhance degraded,
15 scarce, and/or valuable shore features including accretion shoreforms.
- 16 (f) Location and design of boating facilities should not unduly obstruct navigable
17 waters and should avoid adverse effects to recreational opportunities such as
18 fishing, shellfish gathering, pleasure boating, commercial aquaculture,
19 swimming, beach walking, picnicking and shoreline viewing.
- 20 (6) Breakwaters, Jetties, Groins and Weirs Policies:
- 21 (a) To the extent feasible, limit the use of breakwaters, jetties, groins, weirs or
22 other similar structures to those projects providing ecological restoration or
23 enhancement, or other public benefits. These structures should avoid and
24 minimize significant ecological impacts. Impacts which cannot be avoided
25 should be mitigated.
- 26 (7) Dredging and Dredge Material Disposal Policies:
- 27 (a) Dredging and dredge material disposal should avoid and minimize significant
28 ecological impacts. Impacts which cannot be avoided should be mitigated.
- 29 (b) Design and locate new shoreline development to avoid the need for dredging.
- 30 (c) Limit dredging and dredge material disposal to the minimum necessary to
31 allow for shoreline restoration and enhancement, and maintenance of existing
32 legal moorage and navigation. Dredging to provide for new navigation uses is
33 prohibited.
- 34 (d) Ensure that dredging operations are planned and conducted in a manner that
35 will minimize interference with navigation and that will lessen adverse
36 impacts to other shoreline uses.
- 37 (8) Docks and Piers Policies:
- 38 (a) New moorage should be permitted only to support the intended water-
39 dependent or public access use.

- 1 (b) Moorage should be spaced and oriented in a manner that minimizes hazards
2 and obstructions to public navigation rights and corollary rights thereto such
3 as, but not limited to, fishing, swimming and pleasure boating.
- 4 (c) Moorage should be restricted to the minimum size necessary to meet the needs
5 of the proposed use. The length, width and height of piers and docks should be
6 no greater than that required for safety and practicality for the primary use.
- 7 (d) Pile supports are preferred over fills because piles do not displace water
8 surface or aquatic habitat and are removable and thus more flexible in terms
9 of long term use patterns.
- 10 (e) Piers and docks should be constructed of materials that will not adversely
11 affect water quality or aquatic plants and animals in the long term.
- 12 (f) New pier and dock development should be designed so as not to interfere with
13 lawful public access to or use of shorelines. Developers of new piers and
14 shared moorage should be encouraged to provide physical or visual public
15 access to shorelines whenever safe and compatible with the primary use and
16 shore features.
- 17 (9) Fill Policies:
- 18 (a) Limit fill waterward of the OHWM to support ecological restoration and
19 enhancement, or to facilitate water-dependent or public access uses.
- 20 (b) Allow fill upland of the OHWM provided it is located, designed and
21 constructed to protect shoreline ecological functions and ecosystem-wide
22 processes, including channel migration, and is the minimum necessary to
23 implement an approved project.
- 24 (10) Moorage: Piers, Docks, Mooring Buoys Policies:
- 25 (a) Docks, piers and mooring buoys should avoid locations where they will
26 adversely impact shoreline ecological functions or processes.
- 27 (b) Moorage should be spaced and oriented in a manner that minimizes hazards
28 and obstructions to public navigation rights and corollary rights thereto such
29 as, but not limited to, fishing, swimming and pleasure boating.
- 30 (c) Moorage should be restricted to the minimum size necessary to meet the needs
31 of the proposed use. The length, width and height of piers and docks should be
32 no greater than that required for safety and practicality for the primary use.
- 33 (d) Piers and docks should be constructed of materials that will not adversely
34 affect water quality or aquatic plants and animals in the long term.
- 35 (11) Recreational Development Policies:
- 36 (a) Shoreline recreational development should be given priority for shoreline
37 location to the extent that the use facilitates the public's ability to reach,
38 touch, and enjoy the water's edge, to travel on the waters of the state, and to
39 view the water and the shoreline. Where appropriate, such facilities should be
40 dispersed along the shoreline in a manner that supports more frequent

- 1 recreational access and aesthetic enjoyment of the shoreline for a substantial
 2 number of people.
- 3 (b) Recreational developments should facilitate appropriate use of shoreline
 4 resources while conserving them. These resources include, but are not limited
 5 to: accretion shoreforms, wetlands, soils, ground water, surface water, native
 6 plant and animal life, and shore processes.
- 7 (c) Recreational facilities should be a combination of active and passive types.
 8 Location of such facilities should consider the ecological function and
 9 sensitive nature of the shorelines in order to avoid adverse impacts. For
 10 example, wildlife and habitat preservation areas with sensitive nature of
 11 shoreline should have low impact recreational uses.
- 12 (d) Encourage the linkage of shoreline parks, recreation areas, and public access
 13 points with linear systems, such as hiking paths, bicycle paths, easements
 14 and/or scenic drives.
- 15 (e) Recreation facilities should incorporate public education regarding shoreline
 16 ecological functions and processes, the role of human actions on the
 17 environment and the importance of public involvement in shorelines
 18 management. Opportunities incorporating educational and interpretive
 19 information should be pursued in design and operation of recreation facilities
 20 and nature trails.
- 21 (f) Locate and design recreational developments to preserve, enhance, or create
 22 scenic views and vistas in accordance with SMP, Section I, Public Access and
 23 Recreation element.
- 24 (12) Residential Development Policies:
- 25 (a) Consider single-family residential development as a priority use only when
 26 developed in a manner consistent with the control of pollution and prevention
 27 of damage to the natural environment.
- 28 (b) Locate and construct residential development in a manner that assures no net
 29 loss of shoreline ecological functions, and to protect water quality.
- 30 (c) Ensure the overall density of development, lot coverage, and height of
 31 structures is appropriate to the physical capabilities of the site and consistent
 32 with the comprehensive plan.
- 33 (d) Ensure new residential development provides adequate buffers or open space
 34 from the water to protect or restore ecological functions and ecosystem-wide
 35 processes, to preserve views, to preserve shoreline aesthetic characteristics, to
 36 protect the privacy of nearby residences, and to minimize use conflicts.
- 37 (e) Make adequate provisions for services and infrastructure necessary to support
 38 residential development.
- 39 (f) Design and locate new residences so that shoreline stabilization will not be
 40 necessary to protect the structure. The creation of new residential lots should
 41 not be allowed unless it is demonstrated the lots can be developed without:

- 1 (i) Constructing shoreline stabilization structures (such as bulkheads);
- 2 (ii) Causing significant erosion or slope instability; or
- 3 (iii) Removing existing native vegetation within shoreline buffers.
- 4 (13) Shoreline Habitat and Natural Systems Enhancement Projects Policies:
- 5 (a) Include provisions for shoreline vegetation restoration and enhancement, fish
- 6 and wildlife habitat enhancement, and low impact development techniques in
- 7 projects located within shoreline jurisdiction, where feasible.
- 8 (b) Encourage and facilitate implementation of projects and programs included in
- 9 the Shoreline Master Program Shoreline Restoration Plan.
- 10 (14) Shoreline Stabilization Policies:
- 11 (a) Locate and design new development, including subdivisions, to eliminate the
- 12 need for new shoreline modification or stabilization.
- 13 (b) Design, locate, size and construct new or replacement structural shoreline
- 14 stabilization measures to minimize and mitigate the impact of these
- 15 modifications on the City's shorelines.
- 16 (c) Give preference to non-structural shoreline stabilization measures over
- 17 structural shoreline stabilization, and give preference to soft structural
- 18 shoreline stabilization over hard structural shoreline stabilization.
- 19 (d) Allow location, design, and construction of riprap and other bank stabilization
- 20 measures primarily to prevent damage to existing development or from Banks
- 21 Lake operations, or to protect the health, safety and welfare of Electric City's
- 22 residents.
- 23 (e) Encourage fish-friendly shoreline design during new construction and
- 24 redevelopment by offering incentives and regulatory flexibility.
- 25 (15) Utilities Policies:
- 26 (a) Allow for utility maintenance and extension with criteria for location and
- 27 vegetation restoration and enhancement as appropriate.
- 28 (b) Plan, design, and locate utility facilities to minimize harm to shoreline
- 29 functions, preserve the natural landscape, and minimize conflicts with present
- 30 and future planned land and shoreline uses while meeting the needs of future
- 31 populations in areas planned to accommodate growth.
- 32 (c) Do not permit new non-water-oriented primary utility production and
- 33 processing facilities, or parts of those facilities, such as power plants, solid
- 34 waste storage or disposal facilities within shoreline jurisdiction unless no
- 35 other options are feasible. Primary utility facilities, such as wastewater
- 36 treatment plants and including expansion of existing facilities, should be
- 37 located in shoreline jurisdiction only if no practical upland alternative or
- 38 location exists. Such facilities and expansions should be designed and located
- 39 to minimize impacts on shoreline ecological functions, including riparian and
- 40 aquatic areas, and to the natural landscape and aesthetics. Public health and

1 safety should be the highest priority for the planning, development and
2 operation of primary utility facilities.

3 (d) Locate utility transmission facilities for the conveyance of services, such as
4 power lines, cables, and pipelines, outside of shoreline jurisdiction where
5 feasible. Where permitted within shoreline jurisdiction, such facilities should
6 be located within existing or approved road crossings, right-of-way and
7 corridors or in such a way as to minimize potential adverse impacts on
8 shoreline areas. Joint use of rights-of-way and corridors in shoreline areas
9 should be encouraged.

10 (e) Locate new utility facilities so as not to require extensive shoreline protection
11 works.

12 (f) Locate utility facilities and corridors to protect scenic views from public parks
13 and trails. Whenever possible, such facilities should be placed underground,
14 or alongside or under bridges.

15 (g) Design utility facilities and rights-of-way to preserve the natural landscape
16 and to minimize conflicts with present and planned land uses.

17 (16) Existing Uses Policies:

18 (a) Allow nonconforming existing legal uses and structures to continue in
19 accordance with this SMP. Residential structures and appurtenant structures
20 that were legally established and are used for a conforming use, but that do
21 not meet standards for the following should be considered a conforming
22 structure: setbacks, buffers, or yards; area; bulk; height; or density.

23 (b) Allow alterations of nonconforming structures, uses, and lots in consideration
24 of historic development patterns, when occupied by preferred uses, and when
25 consistent with public safety and other public purposes.

26 (c) Encourage transitions from nonconforming uses to conforming uses.

27 (d) Allow for nonconforming structures to expand when they do not increase the
28 nonconformity according to SMP requirements.

29 (e) Allow for existing roads, driveways and utility lines to continue and expand
30 when they do not increase the nonconformity according to SMP requirements.

31 (f) Consider the no-net-loss of ecological function objective to guide review of
32 proposed expansions or other changes to nonconforming uses and new
33 development on nonconforming vacant lots. This objective may be addressed
34 in an area-wide manner consistent with the SMP cumulative impacts analysis.

35 **Conservation Element**

36 (1) Goal A: The City should conserve or enhance important natural, cultural, and scenic
37 resources.

38 (2) Goal B: Wetlands should be protected because they provide important ecological
39 functions that add to the quality of life.

40 (3) Policies:

- 1 (a) Protect wetlands, natural shorelines, and aquifers.
- 2 (b) Protect soil resources; and unique, diverse or critical wildlife and native plant
3 habitat.
- 4 (c) Enhance the values and functions of parks, wildlife preserves, nature
5 conservancies or sanctuaries, or other open space lands.
- 6 (d) The City should support public and private land trusts in acquiring
7 conservation easements that provide open space attributes, consistent with the
8 intents of property owners.
- 9 (e) Control of erosion at its source as a means of controlling water pollution,
10 recreation resource degradation, and habitat damage should be encouraged.
- 11 (f) Control stormwater runoff in a manner consistent with low impact
12 development practices which utilize natural detention, retention and recharge
13 techniques to the maximum extent possible.
- 14 (g) Protect shoreline processes and ecological functions through regulatory and
15 non-regulatory means that may include acquisition of key properties,
16 conservation easements, regulation of development within shoreline
17 jurisdiction, and incentives to private property owners to encourage
18 ecologically sound design and implementation of best land management
19 practices.
- 20 (h) Work with other jurisdictional agencies in the region and with the private
21 sector to deal effectively with regional and watershed-wide natural
22 environment issues and the protection, preservation, and enhancement of all
23 shorelines as fish and wildlife habitat.
- 24 (i) Enhance and restore areas which are biologically and aesthetically degraded to
25 the greatest extent feasible while maintaining appropriate use of the shoreline

26 **Historic, Cultural, Scientific, and Educational Resources Element**

- 27 (1) Goal A: Identify, preserve and protect historic, cultural and archaeological resources
28 found to be significant by regional, local, state or federal processes.
- 29 (2) Goal B: Encourage educational and scientific projects and programs that foster a
30 greater appreciation of the importance of shoreline management, water-oriented
31 activities, environmental conservation and local historic connections with Electric
32 City's shoreline.
- 33 (3) Policies:
- 34 (a) Preserve scenic vistas, historic, cultural and archaeological sites in shoreline.
- 35 (b) Prior to demolition, moving, or alteration to any designated historic, cultural,
36 and archaeological landmark, ensure that due consideration is given to
37 preservation or, at a minimum, documentation of its cultural or archaeological
38 value

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

2 (1) Goal A: Recognize and protect private property rights in shoreline uses and
3 developments consistent with the public interest.

4 (2) Policies:

5 (a) Shoreline uses should be located and designed to respect private property
6 rights, maintain privacy of private property, be compatible with the shoreline
7 environment, protect ecological functions and processes, and protect aesthetic
8 values of the shoreline.

9 (b) Public access to shoreline such as trail, bikeways or roads should consider
10 privacy of private property owners when locating them near private
11 properties.

1 **SECTION II: Shoreline Regulations – ECMC Chapter 16.20**

2
3 **Article I. Authority and Purpose**

4 **16.20.010 Authority**

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

7 **16.20.020 Applicability**

- 8 (1) This Program shall apply to all of the shorelands and waters within Electric City as
9 described in the City’s SMP, Section I, Profile of the Shoreline Jurisdiction within
10 Electric City.
- 11 (2) All proposed uses, activities, or development occurring within shoreline jurisdiction
12 must conform to the intent and requirements of Chapter 90.58 RCW, the SMA, and
13 this SMP whether or not a permit or other form of authorization is required, except
14 when specifically exempted by statute. See the City’s SMP Section I for the shoreline
15 jurisdiction description and ECMC 16.20.860 for the definition of uses, activities, and
16 development.
- 17 (3) The SMP applies to shoreline jurisdiction within the City limits.
- 18 (4) Pursuant to WAC 173-27-060, federal agency activities may be required by other
19 federal laws to meet the permitting requirements of chapter 90.58 RCW. This
20 Program shall apply to all nonfederal developments and uses undertaken on federal
21 lands and on lands subject to nonfederal ownership, lease or easement, even though
22 such lands may fall within the external boundaries of a federal ownership.
- 23 (5) As recognized by RCW 90.58.350, the provisions of this Chapter shall not affect
24 treaty rights of Indian Nations or tribes.
- 25 (6) Maps indicating the extent of shoreline jurisdiction and shoreline designations are
26 guidance only. They are to be used in conjunction with best available science, field
27 investigations and on-site surveys to accurately establish the location and extent of
28 shoreline jurisdiction when a project is proposed. All areas meeting the definition of a
29 shoreline of the state or a shoreline of statewide significance, whether mapped or not,
30 are subject to the provisions of this Program.

31 **16.20.030 Purpose**

- 32 (1) The purposes of this SMP are:
- 33 (a) To promote the public health, safety, and general welfare of the City by
34 providing comprehensive policies and effective, reasonable regulations for
35 development, use and protection of jurisdictional shorelines; and
- 36 (b) To further assume and carry out the local government responsibilities
37 established by the SMA in RCW 90.58.050 including planning and
38 administering the regulatory program consistent with the policy and
39 provisions of the SMA in RCW 90.58.020; and

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

13 **16.20.040 Relationship to Other Codes, Ordinances and Plans**

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

34 **16.20.050 Liberal Construction**

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

1 **16.20.060 Severability**

2 (1) 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 **16.20.070 Effective Date**

5 (1) 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 **16.20.100 Environment Designations**

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

17 (a) Aquatic

18 (b) Recreation Conservancy

19 (c) Recreation

20 (2) Official Shoreline Maps

21 (a) Shoreline Area Designations are delineated on a map (ECMC 16.20.870),
22 hereby incorporated as a part of this Program that shall be known as the
23 Official Shoreline Map. The purpose of the Official Shoreline Map is to
24 identify Shoreline Area Designations. Maps indicating the extent of shoreline
25 jurisdiction and shoreline designations are guidance only. They are to be used
26 in conjunction with best available science, field investigations and on-site
27 surveys to accurately establish the location and extent of shoreline jurisdiction
28 when a project is proposed.

29 (3) Unmapped or Undesignated Shorelines

30 (a) All areas meeting the definition of a shoreline of the state or a shoreline of
31 statewide significance, whether mapped or not, are subject to the provisions of
32 this Program. All areas within shorelines that are not mapped and/or
33 designated are automatically assigned Recreation Conservancy designation.
34 Within urban growth areas, such shorelines shall be automatically assigned an
35 Recreation Conservancy designation until such time that the shoreline area
36 can be re-designated through a formal amendment.

37 (4) Interpretation of Environment Designation Boundaries

38 (a) Whenever existing physical features are inconsistent with boundaries on the
39 Official Shoreline Map, the Shoreline Administrator shall interpret the

1 boundaries. Appeals of such interpretations may be filed pursuant to ECMC
2 16.20.710, Appeals.

3 (b) All shoreline areas waterward of the OHWM shall be designated Aquatic.

4 (c) Only one shoreline area designation shall apply to a given shoreland area. In
5 the case of parallel designations, designations shall be divided along an
6 identified linear feature. Such linear features shall be clearly noted in the
7 metadata associated with the Official Shoreline Map.

8 **16.20.110 Aquatic**

9 (1) Purpose

10 (a) The purpose of the “Aquatic” shoreline designation is to protect, restore, and
11 manage the unique characteristics and resources of the areas waterward of the
12 ordinary high-water mark (OHWM).

13 (2) Designation Criteria

14 (a) An Aquatic shoreline designation is assigned to lands and waters waterward
15 of the OHWM.

16 (3) Management Policies

17 (a) In addition to the other applicable policies and regulations of this Program, the
18 following management policies shall apply:

19 (i) New over-water structures should be allowed only for water-dependent
20 uses, public access, recreation, or ecological restoration and
21 enhancement.

22 (ii) Shoreline uses and modifications should be designed and managed to
23 prevent degradation of water quality and natural hydrographic
24 conditions.

25 (iii) In-water uses should be allowed where impacts can be mitigated to
26 ensure no net loss of shoreline ecological functions. Permitted in-water
27 uses must be managed to avoid impacts to shoreline ecological
28 functions. Unavoidable impacts must be minimized and mitigated.

29 (iv) On navigable waters or their beds, all uses and developments should
30 be located and designed to:

31 (A) minimize interference with surface navigation

32 (B) consider impacts to public views

33 (C) allow for the safe, unobstructed passage of fish and wildlife,
34 particularly species dependent on migration

35 (v) Multiple or shared use of over-water and water access facilities should
36 be encouraged to reduce the impacts of shoreline development and
37 increase effective use of water resources.

38 (vi) Structures and activities permitted should be related in size, form,
39 design, and intensity of use to those permitted in the immediately

1 adjacent upland area. The size of new over-water structures should be
2 limited to the minimum necessary to support the structure's intended
3 use.

4 (vii) Natural light should be allowed to penetrate to the extent necessary to
5 support nearshore habitat unless other illumination is required by state
6 or federal agencies.

7 (viii) Aquaculture practices should be encouraged in those waters and beds
8 most suitable for such use. Aquaculture should be discouraged where
9 it would unreasonably interfere with navigation and associated
10 recreation usage.

11 (ix) Shoreline uses, development, activities, and modifications in the
12 Aquatic shoreline designation requiring use of adjacent landside
13 property should be in a shoreline designation that allows that use,
14 development, activity or modification.

15 **16.20.120 Recreation Conservancy**

16 (1) Purpose

17 (a) The purpose of the "Recreation Conservancy" environment is to provide for
18 water-oriented recreational opportunities while protecting shoreline
19 ecological functions, conserve existing natural resources and valuable historic
20 and cultural areas in order to provide for sustained resource use.

21 (2) Designation Criteria

22 (a) The following criteria are used to consider a Recreation Conservancy
23 shoreline designation:

24 (i) The shoreline has moderate to high ecological function with moderate
25 to high opportunity for preservation; and low to moderate opportunity
26 for restoration or low to moderate ecological function with moderate to
27 high opportunity for restoration;

28 (ii) The shoreline is not highly developed and development is mostly
29 recreation-related;

30 (iii) The shoreline has existing recreation uses or moderate to high
31 potential for public and private water-oriented recreation where
32 ecological functions can be maintained or enhanced; or

33 (iv) The shoreline has limited scientific or educational value or unique
34 historic or cultural resources values.

35 (3) Management Policies

36 (a) In addition to the other applicable policies and regulations of this Program the
37 following management policies shall apply:

38 (i) Recreation development shall ensure no net loss of shoreline
39 ecological functions and preserve the existing character of the
40 shoreline consistent with the purpose of this designation.

- 1 (ii) Encourage regulations that provide adequate setbacks from the
2 shoreline, promote native vegetation conservation and invasive species
3 control/removal and replacement with native species, reduce the need
4 for shoreline stabilization and maintain or improve water quality to
5 ensure no net loss of shoreline ecological functions.
- 6 (iii) Water-dependent and water-enjoyment recreation facilities that do not
7 deplete the resource over time are preferred uses, provided significant
8 adverse impacts to the shoreline are avoided and unavoidable impacts
9 are minimized and mitigated.
- 10 (iv) Developments and uses that would substantially degrade or
11 permanently deplete the biological resources of the area should not be
12 allowed.
- 13 (v) New shoreline stabilization, flood control measures, vegetation
14 removal, and other shoreline modifications should be designed and
15 managed consistent with these guidelines to ensure that the natural
16 shoreline functions are protected. Such shoreline modification should
17 not be inconsistent with planning provisions for restoration of
18 shoreline ecological functions.

19 **16.20.130 Recreation**

20 (1) Purpose

- 21 (a) The purpose of the “ Recreation” environment is to provide for water-
22 oriented recreational uses with some commercial uses and residential uses to
23 support recreational uses while protecting existing ecological functions,
24 conserving existing natural resources and restoring ecological functions in
25 areas that have been previously degraded.

26
27 (2) Designation Criteria

- 28 (a) The following criteria are used to consider a Recreation shoreline designation:
- 29 (i) The shoreline has low to moderate ecological function with low to
30 moderate opportunity for preservation and low to moderate
31 opportunity for restoration;
- 32 (ii) The shoreline is highly developed and most development is recreation-
33 related with potential for additional recreation and recreation related
34 commerce; or are suitable and planned for water-oriented uses.
- 35 (iii) The shoreline is planned, platted or currently used for recreational
36 development.
- 37 (iv) The shoreline has existing recreation uses or moderate to high
38 potential for public and private, water-oriented recreation where
39 ecological functions can be maintained or enhanced; or

1 (v) The shoreline has limited scientific or educational value or unique
2 historic or cultural resources values.

3 (3) Management Policies

4 (a) In addition to the other applicable policies and regulations of this Program the
5 following management policies shall apply:

6 (i) First priority should be given to water-dependent uses. Second priority
7 should be given to water-related and water-enjoyment uses. Nonwater-
8 oriented uses should not be allowed except as part of mixed use
9 developments with a recreation focus.

10 (ii) Policies and regulations shall assure no net loss of shoreline ecological
11 functions as a result of new development. Consistent with the City's
12 restoration plan, new development shall include restoration and
13 enhancement of shoreline functions as part of project proposals.

14 (iii) Full utilization of existing urban areas should be achieved before
15 further expansion of the Recreation designation is allowed

16 (iv) Where feasible, visual and physical public access should be required
17 as provided for per ECMC 16.20.260. Recreational objectives should
18 be enhanced by combining physical and visual public access
19 opportunities with other recreational opportunities where feasible.

20 (v) Aesthetic objectives should be implemented by means such as sign
21 control regulations, appropriate development siting, screening and
22 architectural standards, and maintenance of natural vegetative buffers.

23 (vi) No net loss of shoreline ecological functions as a result of new
24 development should be assured by application of SMP policies and
25 regulations.

26
27 **Article III. General Regulations**

28 **16.20.200 Shoreline Use and Modification**

29 (1) Table 16.20.200 (3)(f) indicates which shoreline activities, uses, developments and
30 modifications may be allowed or are prohibited in shoreline jurisdiction within each
31 shoreline environment designation. Activities, uses, developments, and modifications
32 are classified as follows:

33 (a) "Permitted Uses" require a Shoreline Substantial Development Permit or a
34 Shoreline Exemption.

35 (b) "Conditional Uses" require a Shoreline Conditional Use Permit per ECMC
36 16.20.750.

37 (c) "Prohibited" activities, uses, developments, and modifications are not
38 allowed.

- 1 (d) General Regulations, per Article III of this Chapter, and Shoreline
2 Modifications and Use Regulations, per Article IV of this Chapter shall be
3 considered for additional limitations.
- 4 (2) Accessory uses shall be subject to the same shoreline permit process as their primary
5 use.
- 6 (3) Where there is a conflict between the chart and the written provisions in this SMP, the
7 written provisions shall control.
- 8 (a) Authorized uses and modifications shall be allowed only in shoreline
9 jurisdiction where the underlying zoning allows for it and are subject to the
10 policies and regulations of this SMP.
- 11 (b) A use is considered unclassified when it is not listed in Table 16.20.200 (3)(f).
12 Shoreline Use and Modification Matrix, or in the Shoreline Modifications and
13 Use Regulations, per Article IV of this Chapter. Any proposed unclassified
14 use shall be classified by the Shoreline Administrator as permitted,
15 conditional, or prohibited, based on the listed use to which the proposed use is
16 most similar. If the Shoreline Administrator determines that the proposed use
17 is not similar to any use in this SMP, the proposed use shall be considered
18 prohibited.
- 19 (c) If any part of a proposed activity, use, modification or development is not
20 eligible for exemption per ECMC 16.20.780, Exemptions from Shoreline
21 Substantial Development Permits, then a Shoreline Substantial Development
22 Permit or Shoreline Conditional Use Permit shall be required for the entire
23 proposed development project.
- 24 (d) When a specific use or modification extends into the Aquatic environment and
25 an abutting upland environment without clear separation (e.g., private
26 moorage facility, shoreline stabilization), the most restrictive permit process
27 shall apply to that use or modification.
- 28 (e) Shoreline and critical areas buffers found in Article V of this Chapter apply to
29 all uses and modifications unless stated otherwise in the regulations.
- 30 (f) Shoreline use and modification matrix:
31

Table 16.20.200 (3)(f). Shoreline Use and Modification Matrix

Use/ Modification	Aquatic	Recreation Conservancy	Recreation
Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable;			
Resource Uses			
Boating and Moorage Facilities			
Boat launch (motorized boats)	A	CU	A
Boat launch (non-motorized boat - canoe / kayak)	A	A	A
Public moorage / Piers and Docks	A	CU	A
Commercial Development			
Water dependent	CU	CU	A
Water-related, Water-enjoyment	X	CU	A
Non-water-oriented	X	X	CU ¹
Dredging Activities			
Dredging	CU	N/A	N/A
Dredge Material Disposal	CU	X	CU
Dredging & Disposal as part of Ecological Restoration/Enhancement	A	A	A
Fill and Excavation			
Waterward of OHWM	CU ²	N/A	N/A
Other upland fill	A	A	A
In-water Modifications			
Breakwater	CU	CU	CU
In-stream structures ³	CU	CU	CU
Groins and Weirs	CU	CU	CU
Recreational Development			
Water-dependent	A	A	A
Water-related/enjoyment (trails, accessory buildings)	CU	A	A
Non-water-oriented	X	CU	A ⁴
Residential Development	X	CU	A ⁵
Shoreline Habitat and Natural Systems Enhancement Projects			
	A	A	A
Shoreline Stabilization and Flood Control			

Abbreviations A = Allowed with Substantial Development Permit; CU = Conditional Use; X= Prohibited; N/A = Not Applicable;			
Use/ Modification	Aquatic	Recreation Conservancy	Recreation
Shoreline Stabilization			
New			
Hard	CU	CU	CU
Soft	A	A	A
Replacement: hard replaced with hard	CU	CU	CU
Replacement: hard replaced with soft	A	A	A
Transportation			
Highways, Arterials, Railroads (parallel to OHWM)	CU	A	A
Secondary/Public Access Roads (parallel to OHWM)	X	A	A
Roads perpendicular to the OHWM	X	A	A
Bridges (perpendicular to shoreline)	CU	CU	A
Existing bridges, trails, roads, and parking facilities: improvement or expansion	A	A	A
New Parking, Accessory ⁶		Permitted under the primary use permit process	
New Parking, Primary	X	X	X
Utility			
Above-ground Utilities (parallel to shoreline)	CU	A	A
Underground Utilities (parallel to shoreline)	CU	A	A

¹ Allowed as part of mixed use

² Allowed for Coulee Playland beach restoration and stabilization

³ Habitat restoration and/or fish habitat enhance purposes only

⁴ Allowed only to support existing water-oriented uses

⁵ Allowed only as part of recreational uses

⁶ Not allowed within 50 ft of edge of riparian vegetation corridor

1

2 **16.20.210 Development standards**

- 3 (1) To preserve the existing and planned character of the shoreline consistent with the
4 purposes of the shoreline environment designations, development standards are
5 provided in Table 16.20.210 (1). These standards apply to all use and modification
6 unless indicated otherwise. In addition, shoreline developments shall comply with all
7 other dimensional requirements of the Electric City Municipal Code.

1

Table 16.20.210 (1): Shoreline Development Standards

	Aquatic	Recreation Conservancy	Recreation
Building Height: maximum in feet	15	35	
Impervious Surface Cover (%)	NA	10	30
Riparian Buffer Width in feet	NA	75' or to edge of wetland buffer, as applicable	50' or to edge of wetland buffer, as applicable
Trail width in feet	NA	10	

2

3 (2) When a development or use is proposed that does not comply with the dimensional
 4 performance standards of this SMP not otherwise allowed by administrative reduction
 5 or administrative modification, such development or use can only be authorized by
 6 approval of a Shoreline Variance.

7 (3) No permit shall be issued for any new or expanded building or structure of more than
 8 35 feet above average grade level on shorelines of the state that will obstruct the view
 9 of a substantial number of residences on areas adjoining such shorelines, except
 10 where the SMP does not prohibit the same and then only when overriding
 11 considerations of the public interest will be served.

12 **16.20.220 Archaeological and Historic Resources**

13 (1) In all developments, whenever an archaeological area or historic site is discovered by
 14 a development in the shoreline area, the developer shall immediately stop the work
 15 and notify the Electric City Shoreline Administrator, and the Office of Archaeology
 16 and Historic Preservation and affected Indian tribes.

17 (2) Upon receipt of application for a shoreline permit or request for a statement of
 18 exemption for development on properties within 500 feet of a site known to contain
 19 an historic, cultural or archaeological resource, or upon findings as described in
 20 ECMC 16.20.220 (1) above, the Electric City Shoreline Administrator shall require a
 21 cultural resource site assessment; provided that, the provisions of this section may be
 22 waived if the Administrator determines that the proposed development activities do
 23 not include any ground disturbing activities and will not impact a known historic,
 24 cultural or archaeological site. The site assessment shall be conducted by a
 25 professional archaeologist or historic preservation professional, as applicable, to
 26 determine the presence of significant historic or archaeological resources. The fee for
 27 the services of the professional archaeologist or historic preservation professional
 28 shall be paid by the landowner or responsible party. The applicant shall submit a
 29 minimum of five (5) copies of the site assessment to the Administrator for
 30 distribution to the applicable parties for review.

31 (3) If the cultural resource site assessment identifies the presence of significant historic or
 32 archaeological resources, a Cultural Resource Management Plan (CRMP) shall be
 33 prepared by a professional archaeologist or historic preservation professional, as

1 applicable. The fee for the services of the professional archaeologist or historic
2 preservation professional shall be paid by the landowner or responsible party. In the
3 preparation of such plans, the professional archaeologist or historic preservation
4 professional shall solicit comments from the Washington State Department of
5 Archaeology and Historic Preservation.

6 **16.20.230 Environmental Protection**

- 7 (1) All project proposals, including those for which a Shoreline Substantial Development
8 Permit is not required, shall comply with RCW Chapter 43.21C, the Washington
9 State Environmental Policy Act.
- 10 (2) Applicants shall apply the following sequence of steps in order of priority to avoid or
11 minimize significant adverse effects and significant ecological impacts, with a) being
12 top priority:
- 13 (a) Avoiding the adverse impact altogether by not taking a certain action or parts
14 of an action;
- 15 (b) Minimizing adverse impacts by limiting the degree or magnitude of the action
16 and its implementation by using appropriate technology or by taking
17 affirmative steps to avoid or reduce impacts;
- 18 (c) Rectifying the adverse impact by repairing, rehabilitating, or restoring the
19 affected environment to the conditions existing at the time of the initiation of
20 the project;
- 21 (d) Reducing or eliminating the adverse impact over time by preservation and
22 maintenance operations;
- 23 (e) Compensating for the adverse impact by replacing, enhancing, or providing
24 substitute resources or environments; and
- 25 (f) Monitoring the adverse impact and the compensation projects and taking
26 appropriate corrective measures.
- 27 (3) Projects that cause significant adverse environmental impacts, as defined in WAC
28 197-11-794 and Chapter 16.20.860, Definitions, are not allowed unless mitigated
29 according to (2), above, to avoid reduction or damage to ecosystem-wide processes
30 and ecological functions. As part of this analysis, the applicant shall evaluate
31 whether the project may adversely affect existing hydrologic connections between
32 wetlands, and either modify the project or mitigate any impacts as needed.
- 33 (4) The City shall require mitigation measures and/or permit conditions based on the
34 provisions of this SMP, in order to mitigate adverse impacts. In order to determine
35 acceptable mitigation or permit conditions, the Shoreline Administrator may require
36 the applicant to provide the necessary environmental information and analysis,
37 including a description of existing conditions/ecological functions and anticipated
38 shoreline impacts, along with a mitigation plan outlining how proposed mitigation
39 measures would result in no net loss of shoreline ecological functions.
- 40 (5) When compensatory measures are appropriate pursuant to the mitigation priority
41 sequence above, preferential consideration shall be given to measures that replace the

1 adversely impacted functions directly and in the immediate vicinity of the adverse
2 impact. However, alternative compensatory mitigation may be authorized within the
3 affected drainage area or watershed that addresses limiting factors or identified
4 critical needs for shoreline resource conservation based on watershed or
5 comprehensive resource management plans, including the Shoreline Restoration Plan,
6 applicable to the area of adverse impact may be authorized. Authorization of
7 compensatory mitigation measures may require appropriate safeguards, terms or
8 conditions as necessary to ensure no net loss of ecological functions.

9 (6) In addition to any requirements for specific critical areas found in Critical Areas
10 section, below, mitigation plans for any adverse impacts on ecological functions
11 resulting from use, activity or development in shoreline jurisdiction, both inside and
12 outside of critical areas, shall address the following:

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

35 **16.20.240 Shoreline Vegetation Conservation**

- 36 (1) Vegetation conservation standards shall not apply retroactively to existing uses and
37 developments. Vegetation associated with existing structures, uses and developments
38 may be maintained within shoreline jurisdiction as stipulated in the approval
39 documents for the development.
- 40 (2) Regulations specifying establishment and management of shoreline buffers are
41 located in the Article V, Critical Areas, of this Chapter Vegetation within shoreline

1 buffers and wetlands and wetland buffers shall be managed consistent with the Article
2 V, Critical Areas, of this Chapter.

3 (3) Vegetation outside of shoreline buffers and wetlands and wetland buffers and within
4 shoreline jurisdiction shall be managed according to this Section and ECMC
5 16.20.230, Environmental Protection, and any other regulations specific to vegetation
6 management contained in other chapters of this SMP.

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

15 **16.20.250 Water Quality, Stormwater, and Nonpoint Pollution**

16 (1) The location, design, construction, and management of all shoreline uses and
17 activities shall protect the quality and quantity of surface and groundwater adjacent to
18 the site.

19 (2) All shoreline development shall comply with the applicable requirements of the latest
20 version of the Washington State Department of Ecology's (Ecology) Stormwater
21 Management Manual for Eastern Washington.

22 (3) Best management practices (BMPs) for control of erosion and sedimentation shall be
23 implemented for all shoreline development.

24 (4) Potentially harmful materials, including but not limited to oil, chemicals, tires, or
25 hazardous materials, shall not be allowed to enter any body of water or wetland, or to
26 be discharged onto the land. Potentially harmful materials shall be maintained in safe
27 and leak-proof containers.

28 (5) All shoreline development, both during and after construction, shall avoid or
29 minimize significant adverse ecological impacts, including any increase in surface
30 runoff, through control, treatment, and release of surface water runoff so that water
31 quality and quantity are not adversely affected. Control measures include, but are not
32 limited to, low impact development techniques, levees, catch basins or settling ponds,
33 oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.

34 (6) New development shall provide stormwater management facilities designed,
35 constructed, and maintained in accordance with the latest version of the Washington
36 State Department of Ecology's (Ecology) Stormwater Management Manual for
37 Eastern Washington, including the use of BMPs. Additionally, new development
38 shall implement low impact development techniques where feasible and necessary to
39 fully implement the core elements of the Surface Water Design Manual.

40 (7) BMPs for control of erosion and sedimentation shall be implemented for all
41 development in shoreline jurisdiction through a city-approved temporary erosion and

1 sediment control (TESC) plan, in accordance with the latest version of the Ecology's
2 Stormwater Management Manual for Eastern Washington, as adopted by the City.

3 (8) For development activities with the potential for adverse impacts on water quality or
4 quantity in a fish and wildlife habitat conservation area, a critical area report as
5 prescribed in Article V, Critical Areas, of this Chapter 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 (9) 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 or boat wake splash,
14 rain, or runoff. Wood treated with creosote, copper chromium arsenic, or
15 pentachlorophenol is prohibited in shoreline waterbodies.

16 **16.20.260 Public Access**

17 (1) Applicants required to provide shoreline public access shall provide physical or visual
18 access, consistent with the City'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 (a) Visual Access. Visual public access may consist of view corridors,
22 viewpoints, or other means of visual approach to public waters.

23 (b) 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, boat or canoe and kayak launching ramp, dock area, view
26 platform, or other area serving as a means of physical approach to public
27 waters.

28 (2) Except as provided in ECMC 16.20.260 (3) below, shoreline substantial
29 developments and shoreline conditional uses shall provide for safe and convenient
30 public access to and along the shoreline where any of the following conditions are
31 present:

32 (a) The development is proposed by a public entity or on public lands;

33 (b) The nature of the proposed use, activity, or development will likely result in
34 an increased demand for public access to the shoreline;

35 (c) The proposed use, activity, or development is not a water-oriented or other
36 preferred shoreline use, activity or development under the Act, such as a non-
37 water-oriented commercial or recreational use;

38 (d) The proposed use, activity, or development may block or discourage the use
39 of customary and established public access paths, walkways, trails, or
40 corridors;

- 1 (e) 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; or
- 4 (f) The proposed use, activity, or development includes key areas for public
5 access recommended in the City's Shoreline Restoration Plan.
- 6 (g) The proposed activity is a publicly financed shoreline erosion control measure
7 (when feasible).
- 8 (3) An applicant shall not be required to provide public access where one or more of the
9 following conditions apply, provided such exceptions shall not be used to prevent
10 implementing the access and trail provisions mentioned in the City's and other
11 agencies management plans:
- 12 (a) Proposed use, activity, or development only involves the construction of four
13 or fewer single-family or multifamily dwellings;
- 14 (b) The nature of the use, activity, or development or the characteristics of the site
15 make public access requirements inappropriate due to health, safety, or
16 environmental hazards; the proponent shall carry the burden of demonstrating
17 by substantial evidence the existence of unavoidable or unmitigable threats or
18 hazards to public health, safety, or the environment that would be created or
19 exacerbated by public access upon the site;
- 20 (c) An existing, new or expanded road or utility crossing through shoreline
21 jurisdiction shall not create the need for public access if the development
22 being accessed or served by the road or utility is located outside of shoreline
23 jurisdiction;
- 24 (d) The proposed use, activity, or development has security requirements that are
25 not feasible to address through the application of alternative design features
26 for public access such as offsite improvements, viewing platforms, and
27 separation of uses through site planning and design;
- 28 (e) The economic cost of providing for public access upon the site is
29 unreasonably disproportionate to the total long-term economic value of the
30 proposed use, activity, or development;
- 31 (f) Safe and convenient public access already exists in the general vicinity, and/or
32 the City and agencies' plans show adequate public access at the property;
- 33 (g) Public access has reasonable potential to threaten or harm the natural
34 functions and native characteristics of the shoreline and/or is deemed
35 detrimental to threatened or endangered species under the Endangered Species
36 Act; or
- 37 (h) The site is within or part of an overall development, a binding site plan, or a
38 planned unit development which has previously provided public access
39 through other application processes.
- 40 (4) Public access shall be located and designed to respect private property rights, be
41 compatible with the shoreline environment, protect ecological functions and

1 processes, protect aesthetic values of shoreline, and provide for public safety
2 (including consistency with Crime Prevention through Environmental Design or
3 CPTED principles, where applicable).

- 4 (5) Shared community access may be allowed if there is no existing or planned public
5 access along the shoreline identified in the City's 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 ECMC 16.20.260 (3) above applies.

9 (6) General Performance Standards

- 10 (a) Uses, activities and developments shall not interfere with the regular and
11 established public use.
- 12 (b) 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 (c) 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 (d) Public access easements, trails, walkways, corridors, and other facilities may
21 encroach upon any buffers or setbacks required in Article V, Critical Areas, of
22 this Chapter or under other provisions of this SMP, provided that such
23 encroachment does not conflict with other policies and regulations of this
24 SMP, and that no net loss of ecological function can be achieved.
- 25 (e) Public access facilities shall accommodate persons with disabilities unless
26 determined infeasible by the Shoreline Administrator.

27 (7) Trails and Levees

- 28 (a) Existing improved and primitive trails shall be maintained and enhanced.
- 29 (b) Shoreline in private ownership should provide public access when feasible as
30 follows:
- 31 (i) Easement for public access; and
- 32 (ii) Physical or visual public access when feasible and when part of the
33 access and trail plan is mentioned in the City of other agencies'
34 management plan.
- 35 (c) Where public access is to be provided by dedication of public access
36 easements along the OHWM, the minimum width of such easements shall be
37 10 feet.

38 (8) Rights-of-Way, Easements, and Streets for Public Access

- 39 (a) The City shall maintain public rights of ways or easements as a means of
40 retaining public access on the shoreline where feasible. Proposed use, activity

1 or developments shall maintain public access provided by public street ends,
2 public utilities, and rights-of-way.

3 (b) The public easements required pursuant to this section, for the purpose of
4 providing access across or through the site to the OHWM, shall be maintained
5 by the property owner to provide for reasonable and safe public access to the
6 OHWM.

7 (9) Where public access routes terminate, connections should be made with the nearest
8 public street unless determined by the Shoreline Administrator to be infeasible. Public
9 access facilities required for an approved or permitted use, activity, or development
10 shall be completed prior to occupancy and use of the site or operation of the activity.
11 Public access shall make adequate provisions, such as screening, buffer strips, fences
12 and signs, to prevent trespass upon adjacent properties and to protect the value and
13 enjoyment of adjacent or nearby private properties and natural areas.

14 (10) Off-site public access may be permitted by the City where it results in an equal or
15 greater public benefit than on-site public access, or when on-site limitations of
16 security, environment, compatibility or feasibility are present. Off-site public access
17 may include, but is not limited to, adequate access on public lands in proximity to the
18 site, opportunity to increase public lands and access with adjoining or proximate
19 public area, enhancing a City-designated public property (e.g. existing public
20 recreation site; existing public access; road, abutting a body of water; or similar) in
21 accordance with City standards, or other related measures.

22 (11) Signage

23 (a) Signage to be approved by the Administrator shall be conspicuously installed
24 along public access easements, trails, walkways, corridors, and other facilities
25 to indicate the public's right of use and the hours of operation. The proponent
26 shall bear the responsibility for establishing and maintaining such signs.

27 (b) The Administrator may require the proponent to post signage restricting or
28 controlling the public's access to specific shoreline areas. The proponent shall
29 bear the responsibility for establishing and maintaining such signage.

30 (c) Size and location of signs shall not obstruct the view of the shoreline and
31 should not negatively impact the shoreline.

32 (d) Signage shall be consistent with Electric City Municipal Code Chapter 18.60,
33 Signs and Advertising Displays.

34 35 **Article IV. Shoreline Modifications and Uses Regulations**

36 **16.20.300 Boating and Moorage Facilities**

37 (1) General Requirements.

38 (a) Boating and moorage facilities shall be allowed only in Sunbanks Resort and
39 Coulee Playland areas.

- 1 (b) All boating uses, development, and facilities shall protect the rights of
2 navigation.
- 3 (c) Boating and moorage facilities shall be sited and designed to ensure no net
4 loss of shoreline ecological functions, and shall meet local, state and federal
5 requirements, as applicable .
- 6 (d) Boating and moorage facilities shall locate on stable shorelines in areas
7 where:
- 8 (i) Water depths are adequate to minimize spoil disposal, filling, beach
9 enhancement, and other channel maintenance activities; and
- 10 (ii) Water depths are adequate to prevent the structure from grounding out
11 at the lowest low water or else stoppers are installed to prevent
12 grounding out.
- 13 (e) Boating and moorage facilities shall not be located:
- 14 (i) Where new or maintenance dredging will be required; or
15 (ii) In areas with important bank margin habitat for aquatic species or
16 where wave action caused by boating use would increase bank erosion
17 rates.
- 18 (f) Boating uses and facilities shall be located far enough from public swimming
19 beaches, and aquaculture harvest areas to alleviate any aesthetic or adverse
20 impacts, safety concerns and potential use conflicts.
- 21 (g) In-water work shall be scheduled to protect biological productivity.
- 22 (h) Accessory uses at boating and moorage facilities shall be:
- 23 (i) Limited to water-oriented uses, including uses that provide physical or
24 visual shoreline access for substantial numbers of the general public;
25 and
- 26 (ii) Located as far landward as possible while still serving their intended
27 purposes.
- 28 (i) Parking and storage areas shall be landscaped or screened to provide visual
29 and noise buffering between adjacent dissimilar uses or scenic areas.
- 30 (j) Boating and moorage facilities shall locate where access roads are adequate to
31 handle the traffic generated by the facility and shall be designed so that
32 lawfully existing or planned public shoreline access is not unnecessarily
33 blocked, obstructed nor made dangerous.
- 34 (k) All marinas and public launch facilities shall provide at least portable
35 restroom facilities for boaters' use that are clean, well-lighted, safe and
36 convenient for public use.
- 37 (l) Installation of boat waste disposal facilities such as pump-outs and portable
38 dump stations are encouraged at all marinas and public boat launches, where
39 possible. The locations of such facilities shall be considered on an individual

1 basis in consultation with United States Bureau of Reclamation, the
2 Washington Departments of Health, Ecology, Natural Resources, Parks, and
3 WDFW, as necessary.

- 4 (m) All utilities shall be placed at or below dock levels, or below ground, as
5 appropriate.
- 6 (n) When appropriate, marinas and boat launch facilities shall install public safety
7 signs, to include the locations of fueling facilities, pump-out facilities, and
8 locations for proper waste disposal.
- 9 (o) Boating and moorage facilities shall be constructed of materials that will not
10 adversely affect water quality or aquatic plants and animals over the long
11 term. Materials used for submerged portions, decking and other components
12 that may come in contact with water shall be approved by applicable state
13 agencies for use in water to avoid discharge of pollutants from wave splash,
14 rain or runoff. Wood treated with creosote, copper chromium, arsenic,
15 pentachlorophenol or other similarly toxic materials is prohibited for use in
16 moorage facilities.
- 17 (p) Boating and moorage facilities in waters providing a public drinking water
18 supply shall be constructed of untreated materials, such as untreated wood,
19 approved plastic composites, concrete, or steel. (See ECMC 16.20.250, Water
20 Quality)
- 21 (q) Vessels shall be restricted from extended mooring.
- 22 (2) Boat Launch Facilities.
- 23 (a) Boat launch and haul-out facilities, such as ramps, marine travel lifts and
24 marine railways, and minor accessory buildings shall be designed and
25 constructed in a manner that minimizes adverse impacts on biological
26 functions, aquatic and riparian habitats, water quality, navigation and
27 neighboring uses.
- 28 (b) Boat launch facilities shall be designed and constructed using
29 methods/technology that have been recognized and approved by state and
30 federal resource agencies as the best currently available.

31 **16.20.310 Commercial Development**

- 32 (1) Water-dependent commercial development shall be given priority over non-water-
33 dependent commercial uses within shoreline environments. Secondly, water-
34 related and water-oriented uses shall be given priority over non-water-oriented
35 commercial uses.
- 36 (2) Non-water-oriented commercial uses shall be allowed if they can demonstrate at least
37 one of the following:
- 38 (a) The commercial use is part of a mixed-use project that includes water-
39 dependent uses and provides a significant public benefit with respect to the
40 objectives of the Act.

- 1 (b) Navigability is severely limited at the proposed site, including opportunities
2 for kayaking or other water-oriented uses.
- 3 (c) The commercial use is physically separated from the shoreline by another
4 property, public right-of-way or levee.
- 5 (d) The commercial use is farther upland than 200 feet from the OHWM;
6 therefore, a water-oriented use is not a viable option.
- 7 (3) Non-water-oriented uses may be located with water-oriented commercial uses
8 provided:
- 9 (a) The mixed-use project includes one or more water-dependent uses.
- 10 (b) Water-dependent commercial uses as well as other water-oriented commercial
11 uses have preferential locations along the shoreline.
- 12 (c) The underlying zoning district permits proposed uses together with
13 commercial uses.
- 14 (d) Public access is provided and/or ecological restoration is provided as a public
15 benefit.
- 16 (4) Review Criteria: The City shall utilize the following information in its review of all
17 commercial development applications:
- 18 (a) Whether there is a water-oriented aspect of the proposed commercial use or
19 activity when it is located within 200 feet of the OHWM;
- 20 (b) Whether the proposed commercial use is consistent with the Shoreline Use
21 and Modification Matrix (see Table 16.20.200 (3)(f));
- 22 (c) Whether the application has the ability to enhance compatibility with the
23 shoreline environment and adjacent uses;
- 24 (d) Whether adequate provisions are made for public and private visual and
25 physical shoreline access; and
- 26 (e) Whether the application makes adequate provisions to prevent adverse
27 environmental impacts and provide for shoreline ecological or critical area
28 mitigation, where appropriate.
- 29 (5) Commercial development shall be designed and maintained in a manner compatible
30 with the character and features of surrounding areas. The City may prescribe and
31 modify project dimensions, screening standards, setbacks, or operation intensities to
32 achieve this purpose.
- 33 (6) Eating and drinking facilities and lodging facilities shall be oriented to provide views
34 to the waterfront when such view is available from the site.
- 35 (7) Commercial uses shall provide for public access as a condition of approval, unless
36 such public access is demonstrated by the proponent to be infeasible or inappropriate
37 for the shoreline pursuant to ECMC 16.20.260, Public Access.
- 38 (8) Commercial uses shall provide for suitable measures to rehabilitate and enhance the
39 shoreline ecology as a condition of approval.

- 1 (9) Non-water-oriented commercial uses shall not be allowed over water in any shoreline
2 environment.
- 3 (10) All commercial loading and service areas shall be located upland or away from the
4 shoreline. Provisions shall be made to screen such areas with walls, fences and
5 landscaping and to minimize aesthetic impacts.
- 6 (11) Development shall be located, designed, and constructed in a manner that assures no
7 net loss of shoreline ecological functions and without significant adverse impacts on
8 other preferred land uses and public access features.

9 **16.20.320 Dredging and Dredge Material Disposal**

- 10 (1) Dredging.
- 11 (a) Non-maintenance dredging shall be avoided where possible. New dredging
12 shall be permitted only where it is demonstrated that the proposed water
13 dependent or water-related uses will not result in significant or ongoing
14 adverse impacts to water quality, fish and wildlife habitat conservation areas
15 and other critical areas, natural drainage and water circulation patterns,
16 significant plant communities, prime agricultural land, and public access to
17 shorelines, unless one or more of these impacts cannot be avoided. When such
18 impacts are unavoidable, they shall be minimized and mitigated such that they
19 result in no net loss of shoreline ecological functions.
- 20 (b) Maintenance dredging of established navigation channels and basins shall be
21 restricted to managing previously dredged and/or existing authorized location,
22 depth and width.
- 23 (c) Dredging and dredge disposal shall be prohibited on or in archaeological sites
24 that are listed on the National Register of Historic Places and the Washington
25 Heritage Register until such time that they have been reviewed and approved
26 by the appropriate agency.
- 27 (d) Dredging techniques that cause minimum dispersal and broadcast of bottom
28 material shall be used, and only the amount of dredging necessary shall be
29 permitted.
- 30 (e) Dredging shall be permitted only:
- 31 (i) For navigation or navigational access;
- 32 (ii) In conjunction with a water-dependent use of water bodies or adjacent
33 shorelands;
- 34 (iii) As part of an approved habitat improvement project;
- 35 (iv) To improve water flow or water quality, provided that all dredged
36 material shall be contained and managed so as to prevent it from re-
37 entering the water; or
- 38 (v) In conjunction with a bridge, navigational structure or wastewater
39 treatment facility for which there is a documented public need and
40 where other feasible sites or routes do not exist.

- 1 (f) Dredging for fill is prohibited except where the material is necessary for
2 restoration and enhancement of shoreline ecological functions.
- 3 (2) Dredge Material Disposal
- 4 (a) Upland dredge material disposal within shoreline jurisdiction is discouraged.
5 In the limited circumstances when it is allowed, it will be permitted under the
6 following conditions:
- 7 (i) Shoreline ecological functions and processes will be preserved,
8 restored or enhanced, including protection of surface and groundwater;
- 9 (ii) Erosion, sedimentation, or runoff will not increase adverse impacts on
10 shoreline ecological functions and processes or property; and
- 11 (iii) The site will ultimately be suitable for a use allowed by this SMP.
- 12 (b) Dredge material disposal shall not occur in wetlands nor within a stream's
13 channel migration zone, except as authorized by Conditional Use Permit as
14 part of a shoreline restoration and enhancement project.
- 15 (c) Dredge material disposal within areas assigned an Aquatic environment
16 designation may be approved only when authorized by applicable agencies,
17 which may include the U.S. Army Corps of Engineers pursuant to Section 404
18 (Clean Water Act) permits, Washington State Department of Fish and
19 Wildlife Hydraulic Project Approval (HPA), and/or the Dredged Material
20 Management Program of the Washington Department of Natural Resources;
21 and when one of the following conditions apply:
- 22 (i) Land disposal is infeasible, less consistent with this SMP, or
23 prohibited by law; or
- 24 (ii) Disposal as part of a program to restore or enhance shoreline
25 ecological functions and processes is not feasible.
- 26 (d) Dredge materials approved for disposal within areas assigned an Aquatic
27 environment designation shall comply with the following conditions:
- 28 (i) Aquatic habitat will be protected, restored, or enhanced;
- 29 (ii) Adverse effects on water quality or biologic resources from
30 contaminated materials will be mitigated;
- 31 (iii) Shifting and dispersal of dredge material will be minimal; and
- 32 (iv) Water quality will not be adversely affected.
- 33 (e) When required by the City's Shoreline Administrative Official, revegetation
34 of land disposal sites shall occur as soon as feasible in order to retard wind
35 and water erosion and to restore the wildlife habitat value of the site. Native
36 species shall be used in the revegetation.
- 37 (f) Dredge material disposal operating periods and hours shall be limited to those
38 stipulated by the Washington Department of Fish and Wildlife and hours to
39 7:00 AM to 5:00 PM Monday through Friday, except in time of emergency as

1 authorized by the Shoreline Administrative Official. Provisions for buffers at
2 land disposal or transfer sites in order to protect public safety and other lawful
3 interests and to avoid adverse impacts shall be required.

4 (3) Submittal Requirements: The following information shall be required for all dredging
5 applications:

- 6 (a) A description of the purpose of the proposed dredging and analysis of
7 compliance with the policies and regulations of this SMP.
- 8 (b) A detailed description of the existing physical character, shoreline
9 geomorphology, and biological resources provided by the area proposed to be
10 dredged, including:
- 11 (i) A site plan map outlining the perimeter of the proposed dredge area.
12 The map must also include the existing bathymetry (water depths that
13 indicate the topography of areas below the OHWM) and have data
14 points at a minimum of 2-foot depth increments.
- 15 (ii) A critical areas report.
- 16 (iii) A mitigation plan if necessary to address any identified adverse
17 impacts on ecological functions or processes.
- 18 (iv) Information on stability of areas adjacent to proposed dredging and
19 spoils disposal areas.
- 20 (c) A detailed description of the physical, chemical and biological characteristics
21 of the dredge materials to be removed, including:
- 22 (i) Physical analysis of material to be dredged (material composition and
23 amount, grain size, organic materials present, source of material, etc.).
- 24 (ii) Chemical analysis of material to be dredged (volatile solids, chemical
25 oxygen demand (COD), grease and oil content, mercury, lead and zinc
26 content, etc.).
- 27 (iii) Biological analysis of material to be dredged.
- 28 (d) A description of the method of materials removal, including facilities for
29 settlement and movement.
- 30 (e) Dredging procedure, including the length of time it will take to complete
31 dredging, method of dredging, and amount of materials removed.
- 32 (f) Frequency and quantity of project maintenance dredging.
- 33 (g) Detailed plans for dredge spoil disposal, including specific land disposal sites
34 and relevant information on the disposal site, including, but not limited to:
- 35 (i) Dredge material disposal area;
- 36 (ii) Physical characteristics including location, topography, existing
37 drainage patterns, surface and ground water;
- 38 (iii) Size and capacity of disposal site;

- 1 (iv) Means of transportation to the disposal site;
- 2 (v) Proposed dewatering and stabilization of dredged material;
- 3 (vi) Methods of controlling erosion and sedimentation;
- 4 (vii) Future use of the site and conformance with land use policies and
- 5 regulations;
- 6 (viii) Total estimated initial dredge volume;
- 7 (ix) Plan for disposal of maintenance spoils for at least a 20-year period, if
- 8 applicable; and
- 9 (x) Hydraulic modeling studies sufficient to identify existing geohydraulic
- 10 patterns and probable effects of dredging.

11 **16.20.330 Fill and Excavation**

- 12 (1) Fill waterward of the OHWM, except fill to support ecological restoration, requires a
- 13 Conditional Use Permit and may be permitted only when:
 - 14 (a) In conjunction with water-dependent or public access uses allowed by this
 - 15 SMP;
 - 16 (b) For shoreline stabilization, beach restoration and erosion protection at Coulee
 - 17 Playland;
 - 18 (c) In conjunction with a bridge or transportation facility of statewide significance
 - 19 for which there is a demonstrated public need and where no feasible upland
 - 20 sites, design solutions, or routes exist;
 - 21 (d) In conjunction with implementation of an interagency environmental clean-up
 - 22 plan to clean up and dispose of contaminated sediments;
 - 23 (e) disposal of dredged material considered suitable under, and conducted in
 - 24 accordance with, the Dredged Material Management Program of the
 - 25 Washington Department of Natural Resources; or
 - 26 (f) In conjunction with any other environmental restoration or enhancement
 - 27 project.
- 28 (2) Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in
- 29 preference to fills. Fills for approved road development in wetlands shall be permitted
- 30 only if pile or pier supports are proven not feasible.
- 31 (3) Fill upland and waterward of the OHWM, including in non-watered side channels,
- 32 shall be permitted only where it is demonstrated that the proposed action will not:
 - 33 (a) Result in significant ecological damage to water quality, fish, and/or wildlife
 - 34 habitat; or
 - 35 (b) Adversely alter natural drainage and circulation patterns.
- 36 (4) Fill shall be of the minimum amount and extent necessary to accomplish the purpose
- 37 of the fill.

- 1 (5) Excavation waterward of the OHWM or within wetlands shall be considered dredging
2 for purposes of this Program.
- 3 (6) Fills or excavation shall not be located where shore stabilization will be necessary to
4 protect materials placed or removed. Disturbed areas shall be immediately stabilized
5 and revegetated, as applicable.
- 6 (7) Fills, beach nourishment and excavation shall be designed to blend physically and
7 visually with existing topography whenever possible, so as not to interfere with long
8 term appropriate use including lawful access and enjoyment of scenery.

9 **16.20.340 Groins and Weirs**

- 10 (1) New, expanded or replacement breakwaters, groins and weirs shall only be permitted
11 if the applicant demonstrates that the proposed groin or weir will not result in a net
12 loss of shoreline ecological functions, and the structure is necessary for water-
13 dependent uses, public access, shoreline stabilization, or other specific public
14 purposes.
- 15 (2) Groins and weirs shall require a Conditional Use Permit, except when such structures
16 are installed to protect or restore ecological functions, such as installation of groins
17 that may eliminate or minimize the need for hard shoreline stabilization.
- 18 (3) Groins and weirs shall be located, designed, constructed and operated consistent with
19 mitigation sequencing principles, including avoiding critical areas, as provided in
20 ECMC 16.20.230 and 16.20.510.

21 **16.20.350 In-Stream Structures**

- 22 (1) In-stream structures are those structures placed by humans within a stream or river
23 waterward of the OHWM that either cause or have the potential to cause water
24 impoundment or the diversion, obstruction, or modification of water flow. In-stream
25 structures may include those for hydroelectric generation, irrigation, water supply,
26 flood control, transportation, utility service transmission, structures primarily
27 intended for fisheries management, or other purposes. Docks, piers and marinas are
28 not regulated as “in-stream structures” under this section of the SMP. See the ECMC
29 16.20.410, Transportation: Trails, Roads, and Parking, and ECMC 16.20.420,
30 Utilities, for regulations governing road and utility crossings of streams.
- 31 (2) General
- 32 (a) The location, planning and design of in-stream structures shall be compatible
33 with the following:
- 34 (i) the full range of public interests, demand for public access to shoreline
35 waters; desire for protection from floods; and need for preservation of
36 historical and cultural resources;
- 37 (ii) protection and preservation of ecosystem-wide processes and
38 ecological functions, including, but not limited to, fish and wildlife,
39 with special emphasis on protecting and restoring priority habitats and
40 species, and water resources and hydro geological processes.

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

16 **16.20.360 Piers and Docks**

- 17 (1) Location standards. Docks, swim floats, buoys, shall be located according to the
18 following criteria:
- 19 (a) Docks, swim floats, and buoys, shall be sited to avoid adversely impacting
20 shoreline ecological functions or processes. (WAC 173-26-321(2)(d))
- 21 (b) Docks, swim floats, and buoys shall be spaced and oriented in a manner that
22 minimizes hazards and obstructions to public navigation rights and corollary
23 rights thereto such as, but not limited to, fishing, swimming and pleasure
24 boating.
- 25 (c) Covered docks or other covered structures are not permitted waterward of the
26 OHWM. (WAC 173-26-321(2)(b, d))
- 27 (2) General design standards. Docks, swim floats, and buoys, shall be designed
28 according to the following criteria:
- 29 (a) All over- and in-water structures shall be constructed and maintained in a safe
30 and sound condition. Abandoned or unsafe structures or materials, including
31 treated wood, pilings, derelict structures, vessels, buoys, and equipment, shall
32 be repaired promptly by the owner or removed after obtaining any necessary
33 permits.
- 34 (b) Lighting is discouraged unless required by a federal or state agency for
35 navigation or safety and security purposes associated with overwater
36 structures shall be beamed, hooded or directed to avoid causing glare on
37 adjacent properties or waterbodies. . In instances where lighting is required
38 for these purposes, illumination levels shall be the minimum necessary for
39 safety. (WAC 173-26-231(2)(b, d))
- 40 (c) Temporary moorages shall be allowed for vessels used in the construction of
41 shoreline facilities. The design and construction of temporary moorages shall

1 be such that upon termination of the project, the aquatic habitat in the affected
2 area can be returned to its original (pre-construction) condition within one
3 year at no cost to the environment or the public.

- 4 (d) No skirting is allowed on any structure. (WAC 173-26-321(2)(b, d))
- 5 (e) If a dock is provided with a safety railing, such railing shall meet International
6 Building Code requirements and shall be an open framework, following
7 appropriate safety standards, that does not unreasonably interfere with
8 shoreline views of adjoining properties.
- 9 (f) Moorage facilities shall be marked with reflectors, or otherwise identified to
10 prevent unnecessarily hazardous conditions for water surface users during the
11 day or night. Exterior finish of all structures shall be generally non-reflective.

- 12 (3) Docks dimensional, material and other standards shall be according to the State and
13 Federal requirements.

14 **16.20.370 Recreational Development**

15 (1) General Preferences

- 16 (a) Recreational uses and facilities shall include features that relate to access,
17 enjoyment, and use of the Electric City shorelines.
- 18 (b) Both passive and active shoreline recreation uses are allowed consistent with
19 the City's Comprehensive Plan.
- 20 (c) Water-oriented recreational uses and activities are preferred in shoreline
21 jurisdiction. Water-dependent recreational uses shall be preferred as a first
22 priority and water-related and water-enjoyment recreational uses as a second
23 priority.
- 24 (d) Existing passive recreational opportunities, including nature appreciation,
25 non-motorized trails, environmental interpretation and native habitat
26 protection, shall be maintained.
- 27 (e) Preference shall be given to the development and enhancement of public
28 access to the shoreline to increase fishing, kayaking and other water-related
29 recreational opportunities

30 (2) General Performance Standards

- 31 (a) The potential adverse impacts of all recreational uses shall be mitigated and
32 adequate provisions for shoreline rehabilitation shall be made part of any
33 proposed recreational use or development to ensure no net loss of shoreline
34 ecological function.
- 35 (b) Sites with fragile and unique shoreline conditions, such as high-quality
36 wetlands and wildlife habitats, shall be used only for non-intensive recreation
37 activities, such as trails, viewpoints, interpretive signage, and similar passive
38 and low-impact facilities that result in no net loss of shoreline ecological
39 function, and do not require the construction and placement of permanent
40 structures.

- 1 (c) For proposed recreation developments that require the use of fertilizers,
2 pesticides, or other toxic chemicals, the proponent shall specify the BMPs to
3 be used to prevent these applications and resultant leachate from entering
4 adjacent waters.
- 5 (d) Recreational developments shall be located and designed to preserve, enhance
6 or create scenic views and vistas.
- 7 (e) In approving shoreline recreational developments, the City 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. The
10 City may, therefore, adjust or prescribe project dimensions, on-site location of
11 project components, intensity of use, screening, lighting, parking, and setback
12 requirements.
- 13 (3) Signs indicating the public's right to access shoreline areas shall be installed and
14 maintained in conspicuous locations at all points of access.
- 15 (4) Recreational developments shall provide facilities for non-motorized access to the
16 shoreline such as pedestrian and bicycle paths, and equestrian, as applicable. New
17 motorized vehicle access shall be located and managed to protect riparian, wetlands
18 and shrub steppe habitat functions and value.
- 19 (5) Proposals for recreational developments shall include a landscape plan indicating how
20 native, self-sustaining vegetation is incorporated into the proposal to maintain
21 ecological functions. The removal of on-site native vegetation shall be limited to the
22 minimum necessary for the development of permitted structures or facilities, and shall
23 be consistent with provisions of ECMC 16.20.240, Shoreline Vegetation
24 Conservation and Article V, Critical Areas.
- 25 (6) Accessory uses and support facilities such as maintenance facilities, utilities, and
26 other non-water-oriented uses shall be consolidated and located in upland areas
27 outside shoreline, wetland, and riparian buffers unless such facilities, utilities, and
28 uses are allowed in shoreline buffers based on the regulations of this SMP.
- 29 (7) Recreational facilities shall make adequate provisions, such as screening, landscaping
30 buffer strips, fences and signs, to prevent trespass upon adjacent properties and to
31 protect the value and enjoyment of adjacent or nearby private properties and natural
32 areas, as applicable.
- 33 (8) Recreational developments shall make adequate provisions for:
- 34 (a) both on-site and off-site access;
- 35 (b) appropriate water supply and waste disposal methods; and
- 36 (c) security and fire protection.
- 37 (9) Structures associated with recreational development shall not exceed 35 feet in
38 height, except for as noted in ECMC 16.20.210, Development Standards, when such
39 structures document that the height beyond 35 feet will not obstruct the view of a
40 substantial number of adjoining residences.

1 (10) Recreational development shall minimize effective impervious surfaces in shoreline
2 jurisdiction and incorporate low-impact development techniques.

3 **16.20.380 Residential Development**

4 (1) Single-family residential development is a preferred use when it is developed in a
5 manner consistent with pollution control and preventing damage to the natural
6 environment.

7 (2) Residential development shall be located and constructed to result in no net loss of
8 shoreline ecological function. No net loss of shoreline ecological functions shall be
9 assured through application of shoreline buffers to avoid future stabilization and other
10 provisions of this SMP related to shoreline stabilization, vegetation management, and
11 on-site sewage disposal.

12 (3) Lots for residential use shall have a maximum density consistent with the City's
13 Comprehensive Plan.

14 (4) Accessory uses and structures shall be located outside of the riparian buffer, unless
15 the structure is or supports a water-dependent use.

16 (5) All residential development shall be located or designed in such a manner as to
17 prevent measurable degradation of water quality from stormwater runoff. Adequate
18 mitigation measures shall be required and implemented where there is the reasonable
19 potential for such adverse effect on water quality.

20 (6) Applications for new shoreline residences shall ensure that shoreline stabilization and
21 flood control structures are not necessary to protect proposed residences.

22 (7) New floating residences and over-water residential structures shall be prohibited in
23 shoreline jurisdiction.

24 (8) New residential development shall connect with sewer systems, when available.

25 (9) All new residential development shall be required to meet the vegetation management
26 provisions contained in ECMC 16.20.240, Shoreline Vegetation Conservation and
27 ECMC 16.20.540, Fish and Wildlife Habitat Conservation Areas.

28 **16.20.390 Shoreline Habitat and Natural Systems Enhancement Projects**

29 (1) Shoreline restoration and enhancement activities designed to restore or enhance
30 shoreline ecological functions and processes and/or shoreline features should be
31 targeted toward meeting the needs of sensitive and/or regionally important plant, fish,
32 and wildlife species, and shall be given priority.

33 (2) Shoreline restoration, enhancement, and mitigation activities designed to create
34 dynamic and sustainable ecosystems to assist the City in achieving no net loss of
35 shoreline ecological functions are preferred.

36 (3) Restoration and enhancement activities shall be carried out in accordance with an
37 approved shoreline restoration plan, and in accordance with the provisions of this
38 SMP.

- 1 (4) To the extent possible, restoration, enhancement, and mitigation activities shall be
2 integrated and coordinated with other parallel natural resource management efforts,
3 such as those identified in the shoreline restoration plan.
- 4 (5) Habitat and beach creation, expansion, restoration, and enhancement projects may be
5 permitted subject to required state or federal permits when the applicant has
6 demonstrated that:
- 7 (a) The project will not adversely impact spawning, nesting, or breeding fish and
8 wildlife habitat conservation areas;
- 9 (b) Fish and wildlife habitat conservation areas will not be adversely affected;
- 10 (c) Water quality will not be degraded; and
- 11 (d) Impacts to critical areas and buffers will be avoided and where unavoidable,
12 minimized and mitigated.
- 13 (6) The City shall review the projects for consistency with this SMP in an expeditious
14 manner and shall issue its decision along with any conditions within forty-five (45)
15 days of receiving all materials necessary to review the request for exemption from the
16 applicant (see Exemptions from Shoreline Substantial Development Permits section
17 of this SMP).

18 **16.20.400 Shoreline Stabilization**

- 19 (1) Shoreline restoration and enhancement activities designed to restore shoreline
20 ecological functions and processes and/or shoreline features should be targeted
21 toward meeting the needs of sensitive and/or regionally important plant, fish, and
22 wildlife species, and shall be given priority.
- 23 (2) New shoreline stabilization for new development is prohibited unless it can be
24 demonstrated that the proposed use cannot be developed without shore protection or
25 is necessary to restore ecological functions or hazardous substance remediation.
- 26 (3) Proposed designs for new or expanded shoreline stabilization shall be designed in
27 accordance with applicable state guidelines, must use best available science, must
28 document that alternative solutions are not feasible or do not provide sufficient
29 protection; must demonstrate that future stabilization measures would not be required
30 on the project site or adjacent properties; and be certified by a qualified professional.
- 31 (4) Land subdivisions and lot line adjustments shall be designed to assure that future
32 development of the newly created lots will not require structural stabilization for
33 subsequent development to occur.
- 34 (5) New or expanded structural shoreline stabilization for existing primary structures,
35 including roads, railroads, and public facilities, etc., is prohibited unless there is
36 conclusive evidence documented by a geotechnical analysis that there is a significant
37 possibility that the structure will be damaged within three (3) years as a result of
38 shoreline erosion caused by wind/wave action or other hydraulic forces, and only
39 when significant adverse impacts are mitigated to ensure no net loss of shoreline
40 ecological functions and/or processes.

- 1 (6) Replacement of an existing shoreline stabilization structure with a similar structure is
2 permitted if there is a demonstrated need to protect existing primary uses, structures
3 or public facilities including roads, bridges, railways, irrigation and utility systems
4 from erosion caused by wave action; provided, that the existing shoreline stabilization
5 structure is removed from the shoreline as part of the replacement activity.
6 Replacement walls or bulkheads shall not encroach waterward of the ordinary high
7 water mark or existing structure unless the facility was occupied prior to the adoption
8 date of this SMP, and there are overriding safety or environmental concerns.
9 Proposed designs for new or expanded shore stabilization shall be in accordance with
10 applicable state guidelines and certified by a qualified professional.
- 11 (7) Where a geotechnical analysis confirms a need to prevent potential damage to a
12 primary structure, but the need is not as immediate as three (3) years, the analysis
13 may still be used to justify more immediate authorization for shoreline stabilization
14 using bioengineering approaches.
- 15 (8) Shoreline stabilization projects that are part of a fish habitat enhancement project
16 meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the
17 state process. Stabilization projects that are not part of such a fish enhancement
18 project will be regulated by this SMP.
- 19 (9) Small-scale or uncomplicated shoreline stabilization projects (for example, tree
20 planting projects) shall be reviewed by a qualified professional to ensure that the
21 project has been designed using best available science.
- 22 (10) Large-scale or more complex shoreline stabilization projects (for example, projects
23 requiring fill or excavation, placing objects in the water, or hardening the bank) shall
24 be designed by a qualified professional using best available science. The applicant
25 may be required to have a qualified professional oversee construction or construct the
26 project.
- 27 (11) Standards for new stabilization structures when found to be necessary include
28 limiting the size to minimum, using measures to assure no net loss of shoreline
29 ecological functions, using soft approaches, and mitigating for impacts.

30 **16.20.410 Transportation: Trails, Roads, and Parking**

- 31 (1) New or expanded motor vehicle and rail transportation facilities shall not be located
32 within shoreline jurisdiction, unless:
- 33 (a) The proponent demonstrates that no feasible upland alternatives exist;
- 34 (b) The project represents the minimum development necessary to serve another
35 specific, localized, and permitted shoreline use; or
- 36 (c) In the case of a water crossing, the proponent demonstrates that the project is
37 necessary to further a substantial public interest.
- 38 (2) When new roads or road expansions are unavoidable in shoreline jurisdiction,
39 proposed transportation facilities shall be planned, located, and designed to achieve
40 the following:

- 1 (a) Meet mitigation sequencing provisions of ECMC 16.20.230, Environmental
2 Protection;
- 3 (b) Avoid adverse impacts on existing or planned water-oriented uses;
- 4 (c) Set back from the OHWM to allow for a usable shoreline area for vegetation
5 conservation and any preferred shoreline uses unless infeasible;
- 6 (d) Minimize grading, vegetation clearing, and alterations of the natural
7 topography; and
- 8 (e) Use BMPs for preventing erosion and degradation of surface water quality.
- 9 (3) Improvements to existing motor vehicle and rail transportation facilities shall not
10 interfere with pedestrian and bicycle access, and shall whenever possible, provide for
11 expansion and enhancement of pedestrian and bicycle transportation facilities.
- 12 (4) Transportation facilities and services for motor vehicles shall utilize existing
13 transportation corridors whenever possible.
- 14 (5) The development, improvement, and expansion of pedestrian and bicycle
15 transportation facilities are allowed within all environments. Such transportation
16 facilities are a preferred use wherever they are compatible with the natural character,
17 resources, and ecology of the shoreline.
- 18 (6) Pedestrian and bicycle transportation facilities shall be designed, located, and
19 constructed consistent with the policies and regulations for public access as provided
20 in ECMC 16.20.260, Public Access of this SMP.
- 21 (7) Parking facilities are not a water-dependent use and shall only be permitted in the
22 shoreline jurisdiction to support an authorized use where it can be demonstrated to the
23 satisfaction of the Shoreline Administrator that there are no feasible alternative
24 locations away from the shoreline. Parking as a primary use shall not be allowed in
25 any shoreline jurisdiction. Accessory parking facilities shall be subject to the same
26 permit type as the primary use.
- 27 (8) Transportation and parking facilities shall be planned to avoid or minimize adverse
28 effects on unique or fragile shoreline features and shall not result in a net loss of
29 shoreline ecological functions or adversely affect existing or planned water-
30 dependent uses. Parking facilities shall be located upland of the principal structure,
31 building, or development they serve, and preferably outside of shoreline jurisdiction,
32 except:
- 33 (a) Where the proponent demonstrates that an alternate location would reduce
34 adverse impacts on the shoreline and adjacent uses;
- 35 (b) Where another location is not feasible; and/or
- 36 (c) Except when Americans with Disability Act (ADA) standards require
37 otherwise.
- 38 In such cases, the applicant shall demonstrate use of measures to reduce adverse
39 impacts of parking facilities in shoreline jurisdiction, such as low impact development
40 techniques, buffering, or other measures approved by the Shoreline Administrator.

- 1 (9) Parking facilities shall be landscaped in a manner to minimize adverse visual and
2 aesthetic impacts on adjacent shoreline and abutting properties.
- 3 (10) All forms of transportation facilities shall, wherever feasible, consolidate water
4 crossings and make joint use of rights-of-way with existing or planned future primary
5 utility facilities and other transportation facility modalities.
- 6 (11) Improvements to all existing transportation facilities shall provide for the
7 reestablishment and enhancement of natural vegetation along the shoreline when
8 appropriate.
- 9 (12) If located in the side yard or waterward side of a structure, loading areas shall be
10 screened from view of pedestrians on either side of the waterway. The visual screen
11 shall be composed of a fence or wall with trees and shrubs consistent with City
12 landscape standards.
- 13 (13) Shoreline crossings and culverts shall be designed to minimize adverse impacts on
14 riparian and aquatic habitat and shall allow for fish passage.
- 15 (14) Trails shall be designed consistent with public access requirements in ECMC
16 16.20.260, Public Access.

17 **16.20.420 Utilities**

- 18 (1) Non-water oriented utility production and processing facilities and transmission
19 facilities are permitted in shoreline jurisdiction only if no practical upland alternative
20 or location exists. New primary utility production and processing facilities, or parts of
21 those facilities, such as power plants, solid waste storage or disposal facilities that are
22 non-water-oriented should not be permitted within shoreline jurisdiction unless no
23 other options are feasible.
- 24 (2) The principal uses permitted by this section include facilities such as sewage
25 collection, holding, transfer and treatment pipelines, tanks, structures, containment
26 facilities, buildings, etc. The following accessory facilities are also permitted,
27 including but not limited to:
- 28 (a) Plant monitoring and control facilities and on-site administrative offices;
- 29 (b) Plant access and logistical facilities such as storage areas, material handling
30 ramps and facilities, etc, and including utility delivery (electrical,
31 communication, etc.) facilities;
- 32 (c) Plant security and safety features such as fences, signage, etc.; and
- 33 (d) Other accessory or auxiliary uses or features, necessary to of the effective and
34 efficient operation of the plant and which cannot feasibly be located outside
35 the shoreline jurisdiction.
- 36 (3) Expansion of existing primary utility facilities within shoreline jurisdiction must
37 demonstrate:
- 38 (a) The expansion is designed to protect adjacent shorelands from erosion,
39 pollution, or other environmentally detrimental factors during and after
40 construction.

- 1 (b) The project is planned to fit existing natural topography as much as practical
2 and avoid alteration of the existing natural environment.
- 3 (c) Debris, overburden, and other construction waste materials shall be disposed
4 of so as to prevent erosion or pollution of a waterbody.
- 5 (4) New primary utility facilities and expansions shall include provisions to control the
6 quantity and quality of surface water runoff to natural waterbodies, using BMPs to
7 retain natural flow rates. A maintenance program to ensure continued proper
8 functioning of such new facilities shall be required.
- 9 (5) Applications for installation of utility facilities shall include the following (at a
10 minimum):
- 11 (a) Reason why the utility facility must be in shoreline jurisdiction;
- 12 (b) Alternative locations considered and reasons for their elimination;
- 13 (c) Location of the same, similar, or other utility facilities in the vicinity of the
14 proposed project;
- 15 (d) Proposed method(s) of construction;
- 16 (e) Plans for reclamation of areas to be disturbed during construction;
- 17 (f) Landscape plans;
- 18 (g) Methods to achieve no net loss of ecological function and minimize clearing
19 of native vegetation; and
- 20 (h) Consistency with City comprehensive plans for utilities, where such plans
21 exist.
- 22 (6) Where feasible, utilities shall be consolidated within a single easement and utilize
23 existing rights-of-way. Any utility located within property owned by the utility
24 which must of necessity cross shoreline jurisdiction shall be designed and operated to
25 reserve the option of general public recreational usage of the right-of-way in the
26 future. This option shall be exercised by the public only where:
- 27 (a) The public will not be exposed to dangers from the utility equipment; and
- 28 (b) The utility itself will not be subjected to unusual risks of damage by the
29 public.
- 30 (7) In areas where utilities must cross shoreline jurisdiction, they shall do so by the most
31 direct route feasible, unless such a route would negatively affect an environmentally
32 critical area, obstruct public access to the shoreline, or interfere with the navigability
33 of a waterbody regulated by this SMP.
- 34 (8) Utility facilities shall be designed and located in a manner that protects scenic views
35 and minimizes adverse aesthetic impacts.
- 36 (9) New utilities which must be constructed across shoreline jurisdiction in previously
37 undisturbed areas must submit a mitigation plan demonstrating the restoration of the
38 shoreline to at least its existing condition. Upon completion of utility installation or

1 maintenance, any disturbed areas shall be regraded to be compatible with the natural
2 terrain of the area and revegetated with appropriate native plants to prevent erosion.

3 (10) Excluding existing facilities, all underwater pipelines or those paralleling the
4 waterway transporting liquids potentially injurious to aquatic life or water quality
5 shall be prohibited, unless no other alternative exists to serve a public interest. In
6 those limited instances where permitted, shut-off valves shall be provided at both
7 sides of the waterbody except for public sanitary sewers of a gravity or siphon nature.
8 In all cases, no net loss of ecological functions shall be maintained.

9 (11) Where utilities cannot cross a shoreline waterbody via a bridge or other existing water
10 crossing, the utilities shall evaluate site-specific habitat conditions and demonstrate
11 whether impacts can be mitigated to negatively impact substrate, or whether utilities will
12 need to be bored beneath the waterbody such that the substrate is not disturbed.
13 Construction of pipelines placed under aquatic areas shall be placed in a sleeve to
14 avoid the need for excavation in the event of a failure in the future.

15 (12) Minor trenching to allow the installation of necessary underground pipes or cables is
16 allowed if no alternative, including boring, is feasible, and if:

17 (a) Impacts on fish and wildlife habitat are avoided to the maximum extent
18 possible.

19 (b) The utility installation shall not increase or decrease the natural rate, extent, or
20 opportunity of channel migration.

21 (c) Appropriate BMPs are employed to prevent water quality impacts or other
22 environmental degradation.

23 (13) Utility installation and maintenance operations shall be conducted in a manner that
24 does not negatively affect surface water quality or quantity. Applications for new
25 utility projects in shoreline jurisdiction shall include a list of BMPs to protect water
26 quality.

27 28 **Article V. Critical Areas**

29 **16.20.500 General Provisions**

30 (1) Statutory Authorization

31 (a) The City shall regulate in the shoreline jurisdiction all uses, activities, and
32 development within, adjacent to, or likely to affect one or more critical areas,
33 consistent with the provisions of Article V – Critical Areas.

34 (2) Purpose

35 (a) The purpose of these regulations is to designate ecologically sensitive and
36 hazardous areas and to protect those areas and their functions and values
37 within Shoreline Jurisdiction. These regulations are intended to:

38 (i) Implement the City Comprehensive Plan (as amended) and comply
39 with the requirements of the Shoreline Management Act;

- 1 (ii) Protect critical areas through the application of the most current,
2 accurate, and complete scientific or technical information available as
3 determined according to WAC 173-26-201(2)(a), and in consultation
4 with state and federal agencies and other qualified professionals;
- 5 (iii) Protect the general public, resources (including cultural and historic
6 resources), and facilities from injury, loss of life, property damage, or
7 financial loss due to erosion, landslides, pollution, steep slope failure,
8 ground shaking or seismic activity;
- 9 (iv) Protect the general public, resources, and facilities from injury, loss of
10 life, property damage, or financial loss due to inundation of frequently
11 flooded areas;
- 12 (v) Protect unique, fragile and valuable elements of the environment,
13 including ground and surface waters, wetlands, and fish and wildlife
14 and their habitats;
- 15 (vi) Prevent cumulative adverse environmental impacts to water quality
16 and availability, wetlands, and fish and wildlife habitat.
- 17 (3) Designation of Critical Areas
- 18 (a) The City shall regulate all uses, activities, and developments within, adjacent
19 to, or likely to affect, one or more critical areas located within the shoreline
20 jurisdiction, consistent with the most current, accurate, and complete scientific
21 or technical information available and the provisions herein.
- 22 (b) The incorporated area of the City is hereby divided into the following critical
23 areas, where appropriate:
- 24 (i) Wetlands
- 25 (ii) Critical Aquifer Recharge Areas
- 26 (iii) Fish and Wildlife Habitat Conservation Areas
- 27 (iv) Geologically Hazardous Areas
- 28 (v) Frequently Flooded Areas
- 29 (4) Data Maps
- 30 (a) The data maps maintained by City shall be used as a general guide to
31 determine the location and extent of critical areas within the corporate limits.
32 The data maps shall be consulted when a development application is received
33 to determine if the site is within any areas shown as resource lands or critical
34 areas. The data maps are for reference only and not regulatory in nature. It
35 shall be the responsibility of the applicant to notify the city of any critical
36 areas which are on or near the site of the development application. The exact
37 location of critical areas shall be determined by a site analysis conducted by a
38 qualified professional using the requirements found within this chapter.
- 39 (5) Interpretation of data maps.

- 1 (a) The Shoreline Administrator is charged with administration of this title for the
2 purpose of interpreting data maps. An affected property owner or other party
3 with standing has a right to appeal the Shoreline Administrator's
4 determination according to the provisions of ECMC 16.20.810, Appeals.
- 5 (b) All development applications are required to show the boundary(ies) of all
6 resource lands and critical areas on a scaled drawing prior to the development
7 application being considered complete for processing purposes.
- 8 (c) Maps and reference documents in the City SMP Inventory, Analysis, and
9 Characterization report, may apply as applicable.
- 10 (6) Applicability.
- 11 (a) This chapter applies to all real property within the shoreline jurisdiction of the
12 corporate limits of the City, Washington, as it is now configured or may, from
13 time to time, be altered.
- 14 (b) These critical areas regulations shall apply to critical areas located within the
15 shoreline jurisdiction.
- 16 (c) No action shall be taken by any person or entity that results in any alteration
17 of any critical area located within the shoreline jurisdiction except as
18 consistent with the purposes, objectives and intent of these regulations.
- 19 (d) Where two or more types of critical areas overlap, requirements for
20 development shall be consistent with the standards for each critical area.
- 21 (e) These regulations shall apply concurrently with review conducted under the
22 State Environmental Policy Act (SEPA), as locally adopted. Any conditions
23 required pursuant to these regulations shall be included in the SEPA review
24 and threshold determination.
- 25 (7) Exemptions
- 26 (a) The activities listed below are exempt from the provisions of this chapter.
27 Exempt activities shall be conducted using all reasonable methods to avoid
28 impacts to critical areas. The decision to declare an activity exempt shall be
29 an Administrative Decision, as set forth in ECMC 16.20.500 (12). Exemption
30 from the chapter shall not be considered permission to degrade a critical area
31 or ignore risks from natural hazards. Incidental damage to, or alteration of, a
32 critical area that is not a necessary outcome of the exempted activity shall be
33 repaired at the responsible party's expense.
- 34 (i) Emergency modification or construction necessary to protect life or
35 real property from immediate damage by natural hazards innate to
36 critical areas. An emergency is an unanticipated event or occurrence
37 which poses an imminent threat to public health, safety, or the
38 environment, and which requires immediate action within a time too
39 short to allow full compliance. Once the threat to the public health,
40 safety, or the environment has dissipated, the actions undertaken as a
41 result of the previous emergency shall be subject to and brought into
42 full compliance with these regulations;

- 1 (ii) Normal maintenance or repair of existing buildings, structures, roads,
2 utilities, levees, or drainage systems, provided the activity does not
3 further alter, encroach upon, or increase impacts to critical areas or
4 associated buffers;
- 5 (iii) Existing agricultural activities normal or necessary to general farming
6 conducted according to industry-recognized best management
7 practices, including the raising of crops or the grazing of livestock;
- 8 (iv) Site investigative work necessary for land use application submittals
9 such as surveys, soil logs, percolation tests and other related activities.
10 In every case, impacts to critical areas shall be minimized and areas
11 disturbed by such activity shall be immediately restored as directed by
12 the Shoreline Administrator to ensure no loss of functions and values;
13 and
- 14 (v) Passive recreational activities, including, but not limited to: fishing,
15 bird watching, hiking, hunting, boating, horseback riding, skiing,
16 swimming, canoeing, and bicycling; provided the activity does not
17 alter the critical area or its buffer by changing drainage patterns,
18 topography, water conditions or water sources.

19 (8) Permitting.

- 20 (a) All applications for permits to conduct activities having a possible significant
21 impact on critical areas that are located on or near a project site must identify
22 the areas affected and make an estimate of the probable impact. The City shall
23 deny all requests for permits which would result in a net loss of ecological
24 functions, those activities degrading a wetland or fish and/or wildlife habitat
25 conservation area, which would put people or property in a position of
26 unacceptable risk with respect to floods or geologic hazards, which would
27 tend to aggravate geologic hazards, or which would harm critical recharging
28 areas for aquifers. The City may, however, grant permits which include
29 mitigation measures if the mitigation measures adequately protect the
30 ecological processes and functions of the critical area and people involved. In
31 granting a permit that includes mitigation measures, the most current,
32 accurate, and complete scientific or technical information available, which
33 shall be determined utilizing the criteria set out in WAC 173-26-201(2)(a),
34 shall be used to develop and approve the mitigation measures (see ECMC
35 16.20.230 and 16.20.510).

36 (9) Determination.

- 37 (a) Each development permit shall be reviewed to determine if the proposal is
38 within a critical area or critical area buffer. City staff shall use maps and data
39 maintained by the City and a site inspection if appropriate.
- 40 (b) If it is determined that a critical area(s) is present additional assessments
41 prepared by a qualified biologist best suited for the type of identified critical
42 area(s) may be required.

- 1 (c) In cases related to geohazards, the assessment shall include a description of
2 the geology of the site and the proposed development; an assessment of the
3 potential impact the project may have on the geologic hazard; an assessment
4 of what potential impact the geologic hazard may have on the project;
5 appropriate mitigation measures, if any; a conclusion as to whether further
6 analysis is necessary; and be signed by and bear the seal of the engineer or
7 geologist that prepared it.
- 8 (d) When a geotechnical report is required it shall include a certification from the
9 engineer preparing the report, including the engineer's professional stamp and
10 signature, stating all of the following:
- 11 (i) The risk of damage from the project, both on- and off- site;
12 (ii) The project will not materially increase the risk of occurrence of the
13 hazard; and
14 (iii) The specific measures incorporated into the design and operational
15 plan of the project to eliminate or reduce the risk of damage due to the
16 hazard.
- 17 (e) All mitigation measures, construction techniques, recommendations, and
18 technical specifications provided in the geotechnical report shall be applied
19 during the implementation of the proposal. The engineer of record shall
20 submit sealed verification at the conclusion of construction that development
21 occurred in conformance with the approved plans.
- 22 (f) A proposed development cannot be approved if it is determined by the
23 geotechnical report that either the proposed development or adjacent
24 properties will be at risk of damage from the geologic hazard, or that the
25 project will increase the risk of occurrence of the hazard, and there are no
26 adequate mitigation measures to alleviate the risks.
- 27 (10) Critical areas review process.
- 28 (a) All land use and building permits shall require that applicants disclose
29 activities within one hundred (100) feet of a known or suspected critical area.
30 The provisions of this chapter shall apply to any such proposals. The review
31 process shall proceed as follows:
- 32 (i) Pre-application meeting/site visit. Upon receiving a land use or
33 development proposal, the Shoreline Administrator shall schedule a
34 pre-application meeting and/or site visit with the proponent. The
35 purpose is to decide whether the proposal is likely to affect the
36 ecological functions of critical areas or pose health and safety hazards.
37 At the meeting, the Shoreline Administrator will:
- 38 (A) Provide the applicant with the requirements of this chapter and
39 other applicable local regulations, including but not limited to
40 comprehensive plans, zoning maps, and overlays;
- 41 (B) Review critical areas maps and other available reference
42 materials with the applicant;

- 1 (C) Outline the review and permitting processes;
- 2 (D) Work with the applicant to identify any potential concerns with
3 regards to critical areas;
- 4 (E) Provide the applicant with the necessary application materials
5 and SEPA checklist form.
- 6 (ii) Exemption determination.
- 7 (iii) Agency consultation.
- 8 (A) Because species populations and habitat systems are dynamic,
9 agency consultation shall be required where activities are
10 proposed within one hundred (100) feet of a designated Fish
11 and Wildlife Habitat Conservation Area. The Shoreline
12 Administrator shall consult with WDFW to determine the value
13 of the site to priority habitats and species.
- 14 (B) Because site specific mapping has not been completed for
15 many critical areas within the City, staff may undertake agency
16 consultation in any instance in which activities are proposed
17 within one hundred (100) feet of a known or suspected critical
18 area.
- 19 (b) Application and SEPA Checklist.
- 20 (i) The applicant shall submit all relevant land use/development
21 applications.
- 22 (ii) The applicant shall submit a completed SEPA Checklist, except in the
23 following cases:
- 24 (A) The use or activity has been found to be exempt from the
25 provisions of these regulations, as described under the heading
26 "Exemptions" above; or
- 27 (B) The use or activity is categorically exempt from SEPA review.
- 28 (c) Determination of need for critical areas report. Based upon the pre-
29 application meeting, application materials, SEPA Checklist, and in the case of
30 Fish and Wildlife Habitat Conservation Areas, the outcome of the agency
31 consultation, the Shoreline Administrator shall determine if there is cause to
32 require a critical areas report. In addition, the Shoreline Administrator may
33 use critical areas maps and reference materials, information and scientific
34 opinions from appropriate agencies, or any reasonable evidence regarding the
35 existence of critical area(s) on or adjacent to the site of the proposed activity.
36 The determination of need for a critical areas report shall be an Administrative
37 Decision, as set forth in ECMC 16.20.500 (12), of these regulations.
- 38 (d) Documentation and notification. The Shoreline Administrator shall document
39 the pre-application meeting and/or site visit, application and SEPA threshold
40 determination, and any other steps or findings (including, in the case of Fish
41 and Wildlife Habitat Conservation Areas, the agency consultation) used to

1 decide whether a critical areas report shall be required. The applicant shall
2 receive notice of the determination and any findings that support it.

3 (11) Critical Areas Report

4 (a) If the Shoreline Administrator determines that the site of a proposed
5 development includes, is likely to include, or is adjacent to one or more
6 critical areas, a critical areas report may be required. When required, the
7 expense of preparing the critical areas report shall be borne by the applicant.
8 The content, format and extent of the critical areas report shall be approved by
9 the Shoreline Administrator.

10 (b) The requirement for critical areas reports may be waived by the Shoreline
11 Administrator if there is substantial evidence that:

12 (i) There will be no alteration of the critical area(s) and/or the required
13 buffer(s); and

14 (ii) The proposal will not impact the critical area(s) in a manner contrary
15 to the purpose, intent and requirements of this ordinance and the City's
16 comprehensive plan; and,

17 (iii) The minimum standards of this chapter will be met.

18 (c) No critical areas report is required for proposals that are exempt from the
19 provisions of this chapter as set forth under ECMC 16.20.500 (7) Exemptions,
20 herein.

21 (d) Every critical area report shall be completed by a qualified professional who is
22 knowledgeable about the specific critical area(s) in question, and approved by
23 the Shoreline Administrator.

24 (e) At a minimum, a required critical areas report shall contain the following
25 information:

26 (i) Applicant's name and contact information; permits being sought, and
27 description of the proposal;

28 (ii) A copy of the site plan for the development proposal, drawn to scale
29 and showing:

30 (A) Identified critical areas, buffers, and the development proposal
31 with dimensions;

32 (B) Limits of any areas to be cleared; and

33 (C) A description of the proposed stormwater management plan for
34 the development and consideration of impacts to drainage
35 alterations;

36 (iii) The names and qualifications of the persons preparing the report and
37 documentation of any fieldwork performed on the site;

- 1 (iv) Identification and characterization of all critical areas within, or within
2 100' (one hundred feet) of, the project area or within any proposed
3 buffer.
- 4 (v) An assessment of the probable cumulative impacts to critical areas
5 resulting from the proposed development of the site;
- 6 (vi) An analysis of site development alternatives;
- 7 (vii) A description of reasonable efforts made to apply mitigation
8 sequencing, as defined in these regulations, to avoid, minimize, and
9 otherwise mitigate impacts to critical areas;
- 10 (viii) A mitigation plan as set forth in ECMC 16.20.510 of these regulations;
- 11 (ix) A discussion of the performance standards proposed to ensure that
12 ecological functions of critical areas are protected and health and
13 safety hazards associated with critical areas are precluded;
- 14 (x) Financial guarantees proposed to ensure compliance with mitigation
15 plan and performance standards; and
- 16 (xi) Any additional information required for specific critical areas as listed
17 in subsequent sections of these regulations.
- 18 (f) The Shoreline Administrator may request any other information reasonably
19 deemed necessary to understand impacts to critical areas.

20 (12) Administrative Review

- 21 (a) Administrative decisions. Where these regulations call for an Administrative
22 Decision, the Shoreline Administrator shall submit his or her findings and
23 preliminary decision to City department heads or council members, as
24 applicable and relevant state and federal agencies, for review at least 30
25 (thirty) days prior to making a final decision, and shall consider timely
26 comments in making a final decision.
- 27 (b) Agency review. In any case in which the Shoreline Administrator does not
28 have adequate knowledge or training to determine the sufficiency and
29 accuracy of information contained within a critical areas report or mitigation
30 plan (whether or not an Administrative Decision is involved), said report or
31 plan shall be submitted to qualified agencies for review and recommendations
32 prior to acceptance by the City. Agency review should be completed within
33 90 (ninety) days of submittal to agency staff.

34 (13) Surety/Bonding

- 35 (a) If a development proposal is subject to mitigation, maintenance or monitoring
36 plans, the City, in a form acceptable to the City Attorney, may require an
37 assurance device or surety.
- 38 (b) When mitigation required pursuant to a development proposal is not
39 completed prior to the City final permit approval, such as final plat approval
40 or final building inspection, the City shall require the applicant to post a

1 performance bond or other security in a form and amount deemed acceptable
2 by the City. If the development proposal is subject to mitigation, the applicant
3 shall post a mitigation bond or other security in a form and amount deemed
4 acceptable by the City to ensure mitigation is fully functional.

5 (c) The bond shall be in the amount of 125 percent of the estimated cost of the
6 uncompleted actions or the estimated cost of restoring the functions and
7 values of the critical area that are at risk, whichever is greater, and the cost of
8 maintenance and monitoring for a 10-year period.

9 (d) The bond shall be in the form of an assignment of savings account, or an
10 irrevocable letter of credit guaranteed by an acceptable financial institution
11 with terms and conditions acceptable to the City attorney or other method
12 acceptable to the Shoreline Administrator.

13 (e) Bonds or other security authorized by this section shall remain in effect until
14 the city determines, in writing, that the standards bonded for have been met.
15 Bonds or other security shall be held by the city for a minimum of 10 years to
16 ensure that the required mitigation has been fully implemented and
17 demonstrated to function, and may be held for longer periods when necessary.

18 (f) Depletion, failure, or collection of bond funds shall not discharge the
19 obligation of an applicant or violator to complete required mitigation,
20 maintenance, monitoring, or restoration.

21 (14) Appeals.

22 (a) Any decision of the Shoreline chapter may be appealed according to the
23 provisions of ECMC 16.20.810, Appeals. Such appeal shall be in writing and
24 must be submitted to the City within ten days from the date of the decision.

25 **16.20.510 General Performance Standards**

26 (1) The following general performance standards shall apply to activities permitted with
27 in critical areas or critical area buffers located within the shoreline jurisdiction.
28 Additional standards may be necessary based on site specific considerations or
29 proposed development impacts.

30 (2) General Performance Standards

31 (a) Areas of new permanent disturbance and all areas of temporary disturbance
32 shall be mitigated and/or restored pursuant to a mitigation and restoration
33 plan.

34 (b) Mitigation, when allowed, shall ensure that development activity does not
35 yield a net loss of the area or function of the critical areas.

36 (c) Mitigation Sequencing. Mitigation plans shall include a discussion of
37 mitigation alternatives (sequencing) as they relate to:

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

- 1 (ii) Minimizing impacts by limiting the degree or magnitude of the actions
2 and its implementation, by using appropriate technology, or by taking
3 affirmative steps to avoid or reduce impacts;
- 4 (iii) Rectifying the impact by repairing, rehabilitating, or restoring the
5 affected environment;
- 6 (iv) Reducing or eliminating the impact over time by preservation and
7 maintenance operations during the life of the action;
- 8 (v) Compensating for the impact by replacing, enhancing, or providing
9 substitute resources or environments; and/or
- 10 (vi) Monitoring the impact and taking appropriate corrective measures.
- 11 (d) Mitigation Plan. When mitigation is required, the applicant shall submit for
12 approval of a mitigation plan as part of the critical area report. The mitigation
13 plan shall include:
- 14 (i) A written report identifying mitigation objectives, including:
- 15 (A) A description of the anticipated impacts to the critical areas and
16 the mitigating actions proposed and the purposes of the
17 compensation measures, including the site selection criteria;
18 identification of compensation objectives; identification of
19 critical area functions and values; and dates for beginning and
20 completion of site compensation construction activities;
- 21 (B) A review of the most current, accurate, and complete scientific
22 or technical information available supporting the proposed
23 mitigation and a description of the report authors experience to
24 date in critical areas mitigation; and
- 25 (C) An analysis of the likelihood of success of the compensation
26 project.
- 27 (ii) Measurable criteria for evaluating whether or not the objectives of the
28 mitigation plan have been successfully attained and whether or not the
29 requirements of this chapter have been met.
- 30 (iii) Written specifications and descriptions of the mitigation proposed,
31 including, but not limited to:
- 32 (A) The proposed construction sequence, timing, and duration;
- 33 (B) Grading and excavation details;
- 34 (C) Erosion and sediment control features;
- 35 (D) A planting plan specifying plant species, quantities, locations,
36 size, spacing, and density; and
- 37 (E) Measures to protect and maintain plants until established.
- 38 (iv) A program for monitoring construction of the compensation project,
39 and for assessing the completed project and its effectiveness over time.

1 The program shall include a schedule for site monitoring and methods
2 to be used in evaluating whether performance standards are being met.
3 A monitoring report shall be submitted as needed to document
4 milestones, successes, problems, and contingency actions of the
5 compensation project. The compensation project shall be monitored
6 for a period necessary to establish that performance standards have
7 been met, but not for a period less than 10 years.

8 (v) Identify potential courses of action, and any corrective measures to be
9 taken if monitoring or evaluation indicates project performance
10 standards are not being met.

11 (e) Mitigation, maintenance, monitoring and contingency plans shall be
12 implemented by the developer to protect critical areas and their buffers prior
13 to the commencement of any development activities. Where mitigation is
14 required herein, the following performance standards shall be met:

15 (i) Mitigation planting survival will be one hundred percent for the first
16 year, and eighty percent for each of the four years following.

17 (ii) Mitigation must be installed no later than the next growing season
18 after completion of site improvements, unless otherwise approved by
19 the Shoreline Administrator.

20 (iii) Where necessary, a permanent means of irrigation shall be installed for
21 the mitigation plantings that are designed by a landscape architect or
22 equivalent professional, as approved by the Shoreline Administrator.
23 The design shall meet the specific needs of the vegetation, as may be
24 applicable.

25 (iv) Onsite monitoring and monitoring reports shall be submitted to the city
26 one year after mitigation installation; three years after mitigation
27 installation; and five years after mitigation installation. The length of
28 time involved in monitoring and monitoring reports may be increased
29 by the Shoreline Administrator for a development project on a case-
30 by- case basis when longer monitoring time is necessary to establish or
31 re-establish functions and values of the mitigation site. Monitoring
32 reports shall be submitted by a qualified professional biologist. The
33 biologist must verify that the conditions of approval and provisions in
34 the wetland management and mitigation plan have been satisfied

35 (v) Monitoring reports by the biologist must include verification that the
36 planting areas have less than twenty percent total non-native /invasive
37 plant cover consisting of exotic and/or invasive species. Exotic and
38 invasive species may include any species on the state noxious weed
39 list, or considered a noxious or problem weed by the Grant County
40 Noxious Weed Board, local conservation districts, or other applicable
41 agencies.

42 (vi) Mitigation sites shall be maintained to ensure that the mitigation and
43 management plan objectives are successful. Maintenance shall include

1 corrective actions to rectify problems, include rigorous, as-needed
2 elimination of undesirable plants; protection of shrubs and small trees
3 from competition by grasses and herbaceous plants, and repair and
4 replacement of any dead plants.

5 (vii) Prior to site development and or building permit issuance, a
6 performance surety agreement shall be submitted by the applicant and
7 shall be reviewed and approved by the city, including the city attorney.
8 The surety agreement must include the complete costs for the
9 mitigation and monitoring which may include but not be limited to: the
10 cost of installation, delivery, plant material, soil amendments,
11 permanent irrigation, seed mix, and three monitoring visits and reports
12 by a qualified professional biologist, including Washington state sales
13 tax. The city must approve the quote for said improvements.

14 (viii) Sequential release of funds associated with the surety agreement shall
15 be reviewed for conformance with the conditions of approval and the
16 mitigation and management plan. Release of funds may occur in
17 increments of one-third for substantial conformance with the plan and
18 conditions of approval. If the standards that are not met are only
19 minimally out of compliance and contingency actions are actively
20 being pursued by the property owner to bring the project into
21 compliance, the city may choose to consider a partial release of the
22 scheduled increment. Non-compliance can result in one or more of the
23 following actions: carry-over of the surety amount to the next review
24 period; use of funds to remedy the nonconformance; scheduling a
25 hearing with the appropriate hearing body to review conformance with
26 the conditions of approval and to determine what actions may be
27 appropriate

28 (3) Trails and trail-related facilities.

29 (a) Construction of commercial, public and private trails, and trail-related
30 facilities, such as picnic tables, benches, interpretive centers and signs,
31 viewing platforms and campsites may be authorized within designated
32 resource lands and critical areas, subject to the following minimum standards:

33 (i) Trail facilities shall, to the extent feasible, be placed on existing road
34 grades, utility corridors, or any other previously disturbed areas.

35 (ii) Trail facilities shall minimize the removal of trees, shrubs, snags and
36 important habitat features. Vegetation management performed in
37 accordance with best management practices as part of ongoing
38 maintenance to eliminate a hazard to trail users is considered
39 consistent with this standard.

40 (iii) Viewing platforms, interpretive centers, campsites, picnic areas,
41 benches and their associated access shall be designed and located to
42 minimize disturbance of wildlife and/or critical characteristics of the
43 affected conservation area.

- 1 (iv) All facilities shall be constructed with materials complementary to the
2 surrounding environment.
- 3 (v) Trail facilities that parallel the shoreline may be located in the outer
4 twenty five percent of the buffer area;
- 5 (A) Commercial and public trails shall not exceed ten feet in width.
6 (B) Private trails shall not exceed four feet in width.
- 7 (iv) Trails that provide direct shoreline access shall not exceed four feet in
8 width and shall be kept to the minimum number necessary to serve the
9 intended purpose.
- 10 (v) Review and analysis of a proposed trail facility shall demonstrate no
11 net loss of ecological functions and values in conformance with this
12 chapter.
- 13 (vi) Trail facilities shall not be exempt from special report requirements, as
14 may be required by this chapter.

15 **16.20.520 Wetlands**

16 (1) Designation

- 17 (a) Wetlands are those areas, designated based on the definitions, methods and
18 standards set forth in the currently approved Federal Wetland Delineation
19 Manual and supplements. All areas within the City meeting the wetland
20 designation criteria in the Delineation Manual and supplements are hereby
21 designated critical areas and are subject to the provisions of this Chapter.
- 22 (b) Wetlands shall be rated according to the Washington State Department of
23 Ecology wetland rating system found in the Washington State Wetlands
24 Rating System for Eastern Washington (Annotated Version), Washington
25 State Department of Ecology Publication No. #04-06-015, August 2004,
26 Annotated March 2007; or as revised by Ecology. Other references for
27 guidance and mitigations include Wetland Mitigation in Washington State –
28 Parts 1 and 2, Washington Department of Ecology Publication #06-06-011a
29 and b), March 2006), Wetlands in Washington State- Volume 1: A Synthesis
30 of the Science. Washington State Department of Ecology. Publication #05-06-
31 006; and Wetlands in Washington State- Volume 2: Guidance for Protecting
32 and Managing Wetlands. Washington State Department of Ecology.
33 Publication #05-06-008.

34 (2) Classification

- 35 (a) Wetland Rating Classes shall be as follows:
- 36 (i) Category I Wetlands: Those wetlands scoring a “Category I” rating
37 under the Washington State Department of Ecology (Ecology)
38 Washington State Wetlands Rating System for Eastern Washington
39 (Annotated Version), Publication #04-06-015, August 2004,
40 Annotated March 2007, as may be amended in the future (hereinafter
41 referred to as the Ecology Wetlands Rating System);

- 1 (ii) Category II Wetlands: Those wetlands scoring a “Category II” rating
 2 under the Ecology Wetlands Rating System;
- 3 (iii) Category III Wetlands: Those wetlands scoring a “Category III” rating
 4 under the Ecology Wetlands Rating System; and
- 5 (iv) Category IV Wetlands: Those wetlands scoring a “Category IV” rating
 6 under the Ecology Wetlands Rating System.
- 7 (3) Development standards.
- 8 (a) Lights shall be directed away from the wetland.
- 9 (b) Activities that generate noise shall be located away from the wetland, or noise
 10 impacts shall be minimized through design or insulation techniques.
- 11 (c) Toxic runoff from new impervious surface area shall be directed away from
 12 wetlands.
- 13 (d) Treated storm water runoff may be allowed into wetland buffers. Channelized
 14 flow should be prevented.
- 15 (e) Use of pesticides, insecticides, and fertilizers within one hundred fifty feet of
 16 wetland boundary shall be limited and follow Best Management Practices
 17 (BMPs).
- 18 (f) The outer edge of the wetland buffer shall be planted with dense native
 19 vegetation and/or fencing to limit pet and human disturbance.
- 20 (g) Measurement of wetland buffers. All buffers shall be measured from the
 21 wetland boundary as surveyed in the field. The width of the wetland buffer
 22 shall be determined according to the proposed land use (Table 16.20.520
 23 (3)(g)-1) and the wetland category (Table .20.520 (3)(g)- 2).

24
 25 **Table 16.20.520 (3)(g)-1. Land Use Intensity Table**

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.
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Table 16.20.520 (3)(g)-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 – 75ft Moderate – 110ft 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.
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 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 (h) Wetland buffer zones shall be retained in their natural condition. Where buffer
2 disturbances are unavoidable during adjacent construction, re-vegetation with
3 native plant materials will be required.
- 4 (i) Standard buffer widths may be modified by the review authority for a
5 development proposal by averaging buffer widths based on a report submitted
6 by the applicant and prepared by a qualified professional approved by the
7 Shoreline Administrator (e.g. wetland biologist), and shall only be allowed
8 where the applicant demonstrates all of the following:
- 9 (i) Averaging is necessary to avoid an extraordinary hardship to the
10 applicant caused by circumstances peculiar to the property;
- 11 (ii) The designated wetland contains variations in sensitivity due to
12 existing physical characteristics;
- 13 (iii) The width averaging will not adversely impact the designated
14 wetland’s functional value;
- 15 (iv) The total area contained within the buffer after averaging is no less
16 than that contained within the standard buffer prior to averaging.
- 17 (v) The buffer at its narrowest point is never less than three-quarters of the
18 required width.
- 19 (j) Mitigation ratios shall be used when impacts to wetlands cannot be avoided.
20 The mitigation ratios by wetland type are an area replacement ratio of:

21 **Table 16.20.420 (3)(j). Mitigation ratios for eastern Washington**

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only1	Re-establishment or Creation (R/C) and Rehabilitation	Re-establishment or Creation (R?C) and Enhancement	Enhancement Only1
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			(RH)1	(E)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
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 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 Heritage site	Not considered possible ²	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible ²	R/C Not considered possible ²	Case-by-base

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 (see

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.

(k) Wetland management and mitigation plan.

- (i) be required when impacts associated with development within a wetland or wetland buffer are unavoidable, demonstrated by compliance with Article V of this Chapter and ECMC 16.20.510, General Performance Standards.
- (ii) Wetland management and mitigation plans shall be prepared by a qualified professional biologist who is knowledgeable of wetland conditions within North Central Washington.
- (iii) 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.
- (iv) 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.

- (l) 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 ECMC 16.20.510, General Performance
2 Standards.

3 (i) Developments authorized within a wetland buffer shall comply with
4 the following minimum standards:

5 (A) 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 (B) 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 (m) 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 (i) Outdoor recreational activities;

29 (ii) Existing and ongoing agricultural activities;

30 (iii) Maintenance of existing facilities, structures, ditches, roads and utility
31 systems.

32 (n) 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 (o) 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 (p) 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 (q) 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 (r) 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 (s) 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 (t) 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 **16.20.530 Critical Aquifer Recharge Area**

- 22 (1) Classification
- 23 (a) 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 (b) High potential: Areas in which soils show permeability ratings of more than
27 20 inches per hour.
- 28 (2) Development standards.
- 29 (a) 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 (b) All new development shall comply with the following requirements:
- 33 (i) 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 (ii) Applicable ground water management area (GWMA) regulations;
- 38 (iii) Applicable regulations set forth by any Irrigation Districts regulated by
39 the United States Department of Interior, Bureau of Reclamation
40 (BOR).

- 1 (iv) State requirements regarding protection of upper aquifer zones and
2 ground water quality (Chapter 173-154 and 173-200 WAC,
3 respectively).
- 4 (v) The Stormwater Management Manual for Eastern Washington
5 (Washington Department of Ecology Publication 04-10-076, or as
6 revised) shall provide the preferred guidance for stormwater best
7 management practices.
- 8 (c) A hydrogeologic study and/or ongoing monitoring may be required to assess
9 impacts of development activities on groundwater resources.
- 10 (d) All proposed activities within aquifer recharge areas must comply with the
11 water source protection requirements of the federal Environmental Protection
12 Agency, State Department of Health and the Grant County health district.
- 13 (e) On-site stormwater facilities shall be designed and installed in all aquifer
14 recharge areas, so as to provide both detention and treatment of all runoff
15 associated with the development.
- 16 (f) All development occurring within aquifer recharge areas shall be required to
17 connect to city sewer and water, and on-site sewage disposal shall be
18 prohibited.
- 19 (g) Landfills, junkyards/salvage yards, mining, wood treatment facilities, or any
20 other activity that could impair the recharge of critical aquifer recharge areas.
21 Such activities may be permitted in areas with high or moderate recharge
22 potential in accord with applicable zoning regulations, providing the applicant
23 can satisfactorily demonstrate that potential negative impacts to groundwater
24 can be prevented.
- 25 (h) All storage tanks, whether above or underground, shall be required to be
26 constructed so as to protect against corrosion for the operational life of the
27 tank, to prevent any release of hazardous substances to the ground, ground
28 waters, or surface waters, and to utilize appropriate containment methods.
- 29 (i) Any agricultural activities conducted within aquifer recharge areas shall
30 incorporate best management practices concerning waste disposal,
31 fertilizer/pesticide/herbicide use, and stream corridor management. If
32 necessary applicants shall seek technical assistance from the Grant County
33 conservation district or the WSU cooperative extension office.
- 34 (j) Application of pesticides, herbicides and fertilizers within aquifer recharge
35 areas shall comply with timing and rates specified on product packaging.
- 36 (k) Vehicle repair and servicing activities must be conducted over impermeable
37 pads and within a covered structure capable of withstanding normally
38 expected weather conditions. Chemicals used in the process of vehicle repair
39 and servicing must be stored in a manner that protects them from weather and
40 provides containment should leaks occur.
- 41 (3) Critical area report requirements.

- 1 (a) 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 (i) A scaled development plan showing the recharge areas;
- 5 (ii) Detailed information on the following items:
- 6 (A) Hydrogeological susceptibility to contamination and
7 contaminant loading potential;
- 8 (B) Depth to ground water;
- 9 (C) Hydraulic conductivity and gradient;
- 10 (D) Soil texture, permeability, and contaminant attenuation
11 potential.
- 12 (iii) Vadose zone analysis, including implications of permeability and
13 attenuation properties;
- 14 (iv) 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 (v) A summary of the proposed development's effect on the recharge area.
- 17 (b) When a proposed use presents a high risk of drinking water contamination, a
18 hydrogeologic assessment shall be required.
- 19 (i) A hydrogeologic assessment shall be required for the following land
20 uses:
- 21 (A) Hazardous substance processing and handling.
- 22 (B) Hazardous waste treatment and storage facility.
- 23 (C) Wastewater treatment plant sludge disposal.
- 24 (D) Solid waste disposal facility.
- 25 (ii) 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 (A) Pertinent well log and geologic data.
- 34 (B) Ambient groundwater quality.
- 35 (C) Groundwater elevation.
- 36 (D) Recharge potential of facility site.

- 1 (E) Current data on wells and any springs located within one
- 2 thousand feet (1,000') of the facility.
- 3 (F) Surface water location and potential recharge.
- 4 (G) Water supply source for the facility.
- 5 (H) Analysis and discussion of the effects of the proposed project
- 6 on the groundwater resource.
- 7 (iii) 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 (iv) 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 **16.20.540 Fish and Wildlife Habitat Conservation Areas**

15 (1) Classification.

- 16 (a) Fish and wildlife habitat conservation areas include those with the following
- 17 characteristics:
- 18 (i) 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 (ii) State designated endangered, threatened and sensitive species. Areas
- 28 with which state designated endangered, threatened and sensitive
- 29 species have a primary association.
- 30 (iii) 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 (iv) 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 (v) Habitats and Species of Local Importance. Habitats and species of
13 local importance are those identified by the city, 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 (vi) All areas within the city 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 (2) Development standards.
- 23 (a) Flora (plant life) and Fauna (animal life) identified as protected, shall be
24 sheltered from construction activities using Best Management Practices.
- 25 (b) 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 ECMC 16.20.540 (d).
- 29 (c) 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 (d) 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 (e) 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 (f) 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.

(g) 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.

(h) 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.

(i) Habitat Conservation Areas:

(i) 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.

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

(iii) 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.

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

(v) Development in or over all surface waters shall require a habitat mitigation plan.

(vi) Riparian buffer for Banks Lake and Osborn Bay in the City is as follows:

Table 16.20.540 (2)(i)(vi). Riparian Buffer Width

Environment Designation	Riparian Buffer Width (Feet)^{1, 2}
Recreation Conservancy	75' or edge of wetland buffer, as applicable
Recreation	50' or edge of wetland buffer, as applicable

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

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

(3) Fish/wildlife habitat management and mitigation plan.

- 1 (a) A fish/wildlife habitat management and mitigation plan shall be prepared by a
2 qualified professional biologist who is knowledgeable of fish and wildlife
3 habitat within North Central Washington.
- 4 (b) In determining the extent and type of mitigation appropriate for the
5 development, the plan shall evaluate the ecological processes that affect and
6 influence critical area structure and function within the water shed or sub-
7 basin; the individual and cumulative effects of the action upon the functions of
8 the critical area and associated watershed; and note observed or predicted
9 trends regarding specific wetland types in the watershed, in light of natural
10 and human processes.
- 11 (c) The fish/wildlife habitat management and mitigation plan shall demonstrate,
12 when implemented, no net loss of ecological functions of the habitat
13 conservation area and buffer.
- 14 (d) The fish/wildlife habitat management and mitigation plan shall identify how
15 impacts from the proposed project shall be mitigated, as well as the necessary
16 monitoring and contingency actions for the continued maintenance of the
17 habitat conservation area and any associated buffer.
- 18 (e) Mitigation for development may include a sequenced combination of the
19 mitigation measures included in ECMC 16.20.510, General Performance
20 Standards, as needed to achieve the most effective protection or compensatory
21 mitigation for critical area functions.
- 22 (f) Mitigation Ratios.
- 23 (i) Mitigation ratios shall be used when impacts to riparian areas, aquatic
24 habitat, and riparian buffers are unavoidable. Compensatory mitigation
25 shall restore, create, rehabilitate or enhance equivalent or greater
26 ecological functions. Mitigation shall be located onsite unless the
27 biologist can demonstrate, and the City approves that onsite mitigation
28 will result in a net loss of ecological functions. If offsite mitigation
29 measures are determined to be appropriate, offsite mitigation shall be
30 located in the same watershed as the development within City.
- 31 (ii) The onsite mitigation ratio shall be at a minimum area replacement
32 ratio of 1:1 for development within aquatic habitat, riparian areas and
33 riparian buffers. An area replacement ratio of 2:1 shall apply to native
34 vegetation removal within these areas. Mitigation for diverse, high
35 quality habitat or offsite mitigation may require a higher level of
36 mitigation. Mitigation and management plans shall evaluate the need
37 for a higher mitigation ratio on a site by site basis, dependent upon the
38 ecological functions and values provided by the habitat.
39 Recommendations by resource agencies in evaluating appropriate
40 mitigation shall be encouraged.

41 **16.20.550 Geologically Hazardous Areas**

- 42 (1) Classification and Designation

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

- 1 debris flows, lahars, mudflows, or related flooding resulting from
2 volcanic activity
- 3 (vi) 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 (vii) Known geologically hazardous areas within the City consist of erosion
8 hazard areas, including steep slopes. As more information is obtained
9 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 (2) Development standards.
- 14 (a) 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 (b) All projects shall comply with the applicable federal, state and local
21 regulations, including the International Building Code;
- 22 (c) Alterations of geologically hazardous areas or associated buffers may only
23 occur for activities that:
- 24 (i) Will not increase the threat of the geological hazard to adjacent
25 properties beyond pre-development conditions;
- 26 (ii) Will not adversely impact other critical areas;
- 27 (iii) 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 (iv) Are certified as safe as designed and under anticipated conditions by a
31 qualified engineer or geologist, licensed in the state of Washington.
- 32 (d) 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 (e) 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 (f) 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 (g) 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 (h) 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 (i) 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 (i) 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 (ii) Structures and improvements shall be located to preserve the most
21 critical portion of the site and its natural landforms and vegetation;

22 (iii) The proposed development shall not result in greater risk or a need for
23 increased buffers on neighboring properties;

24 (iv) The use of retaining walls that allow the maintenance of existing
25 natural slope area is preferred over graded artificial slopes; and

26 (v) Development shall be designed to minimize impervious lot coverage.

27 (j) 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 (k) Subdivision of lands in erosion, landslide, and mine hazard areas is subject to
31 the following:

32 (i) 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 (ii) 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 (l) As determined through the site-specific study, mitigation measures shall be
41 implemented that maintain the integrity of the geologically hazardous area(s);

- 1 (m) 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 (n) 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 (o) Additional Considerations
- 12 (i) 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 (ii) Development specific considerations may warrant additional
16 performance standards based on level of impact to critical areas.

17 **16.20.560 Frequently Flooded Areas**

- 18 (1) Classification
- 19 (a) 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. For the purpose of this ordinance, in case of conflict between
27 FEMA flood hazard maps and the comprehensive flood hazard management
28 plan designations, the more restrictive designation shall apply.
- 29 (2) Maps and References
- 30 (a) Administrator shall use the following maps and references to assist in making
31 a Determination pursuant to ECMC 16.20.500 (9):
- 32 (i) F.E.M.A. Flood Insurance Rate Maps (FIRM), most current available.
- 33 (3) Development standards.
- 34 (a) In addition to the general provisions of these regulations and the requirements
35 of the underlying zoning district, the following minimum standards shall
36 apply to development activities within and adjacent to frequently flooded
37 areas:
- 38 (i) All development within frequently flooded areas shall comply with the
39 Grant County Flood Damage and Prevention Ordinance (GCC 24.16)
40 regarding structural safeguards to reduce risk to human life, health and
41 property from flooding, and other pertinent ordinances and codes.

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

38 **16.20.570 Existing structures and development.**

- 39 (1) Lawfully existing structures and previously approved developments prior to the
40 adoption of this section shall be allowed to continue as exemptions from this chapter.

1 It is the intention of this chapter to allow these nonconforming uses to continue and to
2 allow previously approved developments to commence without any additional review
3 procedures.

4 **16.20.580 Warning and disclaimer of liability.**

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

11
12 **Article VI. Existing Uses, Structures and Lots**

13 **16.20.600 Applicability**

- 14 (1) All nonconforming uses in shoreline jurisdiction shall be subject to the provisions of
15 this article. For nonconformance of use, structures and lots within shoreline critical
16 areas, Article V, Critical Areas, of this Chapter applies. When there is a conflict
17 between this Section and the Critical Area Section as applicable to critical areas, the
18 more restrictive standards shall apply.
- 19 (2) The provisions of this chapter do not supersede or relieve a property owner from
20 compliance with:
- 21 (a) The requirements of the International Building and Fire Codes; or
 - 22 (b) The provisions of the SMP beyond the specific nonconformance addressed by
23 this chapter.
- 24 (3) A change in the required permit review process (e.g. Shoreline Substantial
25 Development Permit versus a Shoreline Conditional Use Permit) shall not create a
26 nonconformance.
- 27 (4) Any nonconformance that is brought into conformance for any period of time shall
28 forfeit status as nonconformance, except as specified in ECMC 16.20.610,
29 Nonconforming Uses.
- 30 (5) A nonconforming lot, use, or structure may be deemed legally nonconforming by
31 providing documentation that the use in question occurred prior to the effective date
32 of this SMP, from one of the following:
- 33 (a) Local agency permit;
 - 34 (b) Orthophoto, aerial photo or planimetric mapping recognized as legitimate by
35 the agency; or
 - 36 (c) Tax record

37 **16.20.610 Nonconforming Uses**

- 38 (1) If, at the effective date of the SMP and any amendment thereto, a lawful use of land
39 exists that is made no longer permissible under the terms of this SMP or amendments

1 thereto, such use may be continued as a nonconforming use so long as it remains
2 otherwise lawful subject to the following conditions:

- 3 (a) No nonconforming use shall be intensified, enlarged, increased or extended to
4 occupy a greater area of land than was occupied on the effective date of the
5 SMP or amendment that made the use no longer permissible. Provided that a
6 nonconforming use may be enlarged, increased or extended in conformance
7 with applicable bulk and dimensional standards of this SMP upon approval of
8 a shoreline conditional use permit.
- 9 (b) No nonconforming use shall be moved in whole or in part to any other portion
10 of the lot which contains the nonconforming use.
- 11 (c) If any nonconforming use of land ceases for any reason for a period exceeding
12 twelve months, any subsequent use of such land shall conform to the
13 regulations specified by this SMP for the use environment in which such land
14 is located.
- 15 (d) If a nonconforming use is replaced by another use, the new use shall conform
16 to this Program and shall not subsequently be replaced by a nonconforming
17 use.

18 **16.20.620 Nonconforming Structures**

- 19 (1) If, at the effective date of the SMP or any amendment thereto, a lawful structure or
20 other improvement exists which is made no longer permissible under the terms of this
21 SMP or amendment thereto, such structure or other improvement may be continued
22 as a nonconforming structure or other improvement so long as it remains otherwise
23 lawful, subject to the following conditions:
- 24 (a) No nonconforming structure or other improvement shall be altered or changed
25 in a way which increases its nonconformity except as allowed in “(b)”.
- 26 (b) Expansions of structures that are nonconforming with respect to a required
27 shoreline buffer:
- 28 (i) May not encroach any farther waterward into the required shoreline
29 buffer.
- 30 (ii) Applicants for such expansions shall restore a portion of the shoreline
31 buffer with riparian vegetation at a 1:1 area ratio to offset the adverse
32 impact, such that the shoreline buffer will function at an equivalent or
33 higher level than the existing conditions. When such expansions occur
34 upland of an existing levee, the applicant’s critical areas report may
35 justify a smaller ratio provided that the study demonstrates no net loss
36 of ecological functions.
- 37 (iii) Greater expansions or alterations of a nonconforming structure require
38 a Shoreline Variance.
- 39 (c) All expansion, extension, maintenance or repair activities of nonconforming
40 structures or improvements shall be consistent with all other provisions of this
41 Program including requirements for no net loss of shoreline ecological

- 1 functions, provided the cumulative cost of such maintenance or repair within
2 any 180-day period shall not exceed 50 percent of the assessed valuation of
3 such building, structure, or land (as applicable) at the time such maintenance
4 is completed.
- 5 (d) When damaged, a nonconforming structure may be restored to the
6 configuration existing immediately prior to the time that the structure was
7 damaged, provided that:
- 8 (i) The applicant applies for permits needed to restore the development
9 within six months of the date the damage occurred.
- 10 (ii) Aggregate cost of damage is less than 25% of the replacement value
11 and replacement is completed within 12 months of the date of
12 damage, unless an extension of time is granted by the Shoreline
13 Administrator upon written petition substantiating to the satisfaction of
14 the Administrator due cause for such extension.
- 15 (iii) The degree of the nonconforming use, building or structure is not
16 increased
- 17 (e) If the aggregate cost of damage is more than 25% of the replacement value,
18 subsequent use of the land and/or structure shall conform to the regulations
19 specified by this SMP for the use environment in which such land is located.
- 20 (f) Nothing in this section will prohibit vertical expansion up to the height
21 allowed in the applicable use environment, provided all other applicable
22 requirements of Electric City development regulations are met.
- 23 (g) Upkeep, repairs and maintenance of a nonconforming structure or other
24 improvement shall be permitted.
- 25 (2) Should such structure or other improvement be moved for any reason for any distance
26 whatever, it shall thereafter conform to the regulations for the use environment in
27 which it is located. Conformance shall be required when:
- 28 (a) A change of use is proposed;
- 29 (b) The use is terminated or discontinued for more than twelve months, or the
30 structure(s) that houses the use is vacated for more than twelve months; or
- 31 (c) The structure(s) or activity that occurs on the land in which the use is
32 conducted is proposed for relocation.
- 33 (3) Residential structures and appurtenant structures that were legally established and are
34 used for a conforming use, but that do not meet standards for the following shall be
35 considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or
36 density.
- 37 (4) For purposes of this section, "appurtenant structures" means garages, sheds, and other
38 legally established structures. "Appurtenant structures" does not include bulkheads
39 and other shoreline modifications or over-water structures.

40

1 **Article VII. Administration and Enforcement**

2 **16.20.700 Roles and Responsibilities**

3 (1) Shoreline Administrator

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

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

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

28 (d) The Shoreline Administrator or his/her designee shall apply Article VII,
29 Administration and Enforcement, for shoreline critical areas.

30 (2) Hearing Examiner

31 (a) The Hearing Examiner shall have the authority to decide on appeals from
32 administrative decisions issued by the Administrator of this SMP.

33 (b) The Hearing Examiner may grant or deny Shoreline Variances and Shoreline
34 Conditional Use Permits, following an open record hearing.

35 (3) City Council. The City Council is vested with authority to:

36 (a) Initiate an amendment to this SMP according to the procedures prescribed in
37 WAC 173-26-100.

38 (b) Adopt all amendments to this SMP, after consideration of the
39 recommendation of the Planning Commission. Substantive amendments shall
40 become effective immediately upon adoption by Ecology.

1 **16.20.710 Interpretation**

- 2 (1) Under the administrative provisions, the Shoreline Administrator shall have authority
3 to interpret this SMP when such interpretation is clearly consistent with the goals and
4 policies of this SMP and the Act.
- 5 (2) The City shall consult with Ecology if formal written interpretations are developed as
6 a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master
7 Program to ensure that any are consistent with the purpose and intent of Chapter
8 90.58 and 173-26 WAC.

9 **16.20.720 Statutory Noticing Requirements**

- 10 (1) At a minimum the City shall provide notice in accordance with WAC 173.27-110,
11 and may provide for additional noticing requirements

12 **16.20.730 Application Requirements**

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

28 **16.20.740 Shoreline Substantial Development Permits**

- 29 (1) A Shoreline Substantial Development Permit shall be required for all development of
30 shorelines, unless the proposal is specifically exempted per ECMC 16.20.780.
31 Shoreline Substantial Development permits shall be processed with a Type II permit
32 procedure as set forth in ECMC 19.09.040.
- 33 (2) A Shoreline Substantial Development Permit shall be granted only when the
34 development proposed is consistent with:
- 35 (a) The policies and procedures of the Act, RCW 90.58;
36 (b) The applicable provisions of WAC 173-27; and
37 (c) This SMP.
- 38 (3) The City may attach conditions to the approval of permits as necessary to assure
39 consistency of the project with the SMA and this SMP.

- 1 (4) Nothing shall interfere with the City's ability to require compliance with all other
2 applicable plans and laws.
- 3 (5) In the granting of all shoreline substantial development permits, consideration shall
4 be given to the cumulative environmental impact of additional requests for like
5 actions in the area. For example, if shoreline substantial development permits were
6 granted for other developments in the area where similar circumstances exist, the sum
7 of the permitted actions should also remain consistent with the policy of RCW
8 90.58.020 and should not produce significant adverse effects to the shoreline
9 ecological functions and processes or other users.

10 **16.20.750 Shoreline Conditional Use Permits**

- 11 (1) Uses specifically classified or set forth in this SMP as conditional uses shall be
12 subject to review and condition by the Shoreline Administrator and by Ecology.
13 Applications for a Shoreline Conditional Use Permit (SCUP) shall be processed with a
14 Type III permit procedure as set forth in ECMC 19.09.050.
- 15 (2) Other uses which are not classified or listed or set forth in this SMP may be
16 authorized as conditional uses provided the applicant can demonstrate consistency
17 with the requirements of this Section and the requirements for conditional uses
18 contained in this SMP.
- 19 (3) Uses which are specifically prohibited by this SMP may not be authorized as a
20 conditional use.
- 21 (4) Review Criteria for SCUP. Uses which are classified or set forth in the applicable
22 master program as conditional uses may be authorized provided that the applicant
23 demonstrates all of the following:
- 24 (a) That the proposed use is consistent with the policies of RCW 90.58.020 and
25 the master program;
- 26 (b) That the proposed use will not interfere with the normal public use of public
27 shorelines;
- 28 (c) That the proposed use of the site and design of the project is compatible with
29 other authorized uses within the area and with uses planned for the area under
30 the comprehensive plan and shoreline master program;
- 31 (d) That the proposed use will cause no significant adverse effects to the shoreline
32 environment in which it is to be located; and
- 33 (e) That the public interest suffers no substantial detrimental effect.
- 34 (5) In the granting of all conditional use permits, consideration shall be given to the
35 cumulative impact of additional requests for like actions in the area. For example, if
36 conditional use permits were granted for other developments in the area where similar
37 circumstances exist, the total of the conditional uses shall also remain consistent with
38 the policies of RCW 90.58.020 and shall not produce substantial adverse effects to
39 the shoreline environment.

1 (6) In authorizing a conditional use, special conditions may be attached to the permit by
2 the City or Ecology to prevent undesirable effects of the proposed use and/or to
3 assure consistency of the project with the SMA and this SMP.

4 (7) Nothing shall interfere with the City’s ability to require compliance with all other
5 applicable plans and laws.

6 **16.20.760 Shoreline Variance Permits**

7 (1) The purpose of a variance is to grant relief to specific bulk or dimensional
8 requirements set forth in this SMP where there are extraordinary or unique
9 circumstances relating to the property such that the strict implementation of this SMP
10 would impose unnecessary hardships on the applicant or thwart the policies set forth
11 in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.
12 Applications for Shoreline Variance Permits shall be processed with a Type III permit
13 procedure as set forth in ECMC 19.09.050.

14 (2) Review Criteria

15 (a) Variance permits should be granted in circumstances where denial of the
16 permit would result in a thwarting of the policy enumerated in RCW
17 90.58.020. In all instances the applicant must demonstrate that extraordinary
18 circumstances shall be shown and the public interest shall suffer no substantial
19 detrimental effect.

20 (b) Variance permits for development and/or uses that will be located landward of
21 the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any
22 wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the
23 applicant can demonstrate all of the following:

24 (i) That the strict application of the bulk, dimensional or performance
25 standards set forth in the SMP precludes, or significantly interferes
26 with, reasonable use of the property;

27 (ii) That the hardship described in criterion 16.20.760 (2)(b) of this
28 subsection is specifically related to the property, and is the result of
29 unique conditions such as irregular lot shape, size, or natural features
30 and the application of the SMP, and not, for example, from deed
31 restrictions or the applicant's own actions;

32 (iii) That the design of the project is compatible with other authorized uses
33 within the area and with uses planned for the area under the
34 comprehensive plan and SMP and will not cause adverse impacts on
35 the shoreline environment;

36 (iv) That the variance will not constitute a grant of special privilege not
37 enjoyed by the other properties in the area;

38 (v) That the variance requested is the minimum necessary to afford relief;
39 and

40 (vi) That the public interest will suffer no substantial detrimental effect.

- 1 (c) Variance permits for development and/or uses that will be located waterward
2 of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as
3 defined in RCW 90.58.030(2)(h), may be authorized provided the applicant
4 can demonstrate all of the following:
- 5 (i) That the strict application of the bulk, dimensional or performance
6 standards set forth in the applicable master program precludes all
7 reasonable use of the property;
- 8 (ii) That the proposal is consistent with the criteria established under
9 Section 16.20.760 (2)(b) (i)-(vi) above can be met; and
- 10 (iii) That the public rights of navigation and use of the shorelines will not
11 be adversely affected.
- 12 (d) In the granting of all variance permits, consideration shall be given to the
13 cumulative impact of additional requests for like actions in the area. For
14 example if variances were granted to other developments and/or uses in the
15 area where similar circumstances exist the total of the variances shall also
16 remain consistent with the policies of RCW 90.58.020 and shall not cause
17 substantial adverse effects to the shoreline environment.

18 **16.20.770 Duration of Permits**

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

20 **16.20.780 Exemptions from Shoreline Substantial Development Permits**

- 21 (1) An exemption from the Shoreline Substantial Development Permit process is not an
22 exemption from compliance with the SMA or this SMP, or from any other regulatory
23 requirements. All proposed uses, activities, or development occurring within
24 shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58
25 RCW, the SMA, and this SMP whether or not a permit or other form of authorization
26 is required.
- 27 (2) Letters of exemption shall be issued by the City when an exemption applies or when a
28 letter of exemption is required by the provisions of WAC 173-27-050 and as follows:
- 29 (a) Any person claiming exemption from the substantial development permit
30 requirements shall make an application to the Shoreline Administrator for
31 such an exemption in the manner prescribed by the Shoreline Administrator,
32 except that no written statement of exemption is required for emergency
33 development pursuant to WAC 173-27-040(2)(d)
- 34 (b) The Shoreline Administrator is authorized to grant or deny requests for
35 statements of exemption from the shoreline substantial development permit
36 requirement for uses and developments within shorelines that are specifically
37 listed in Section 40.460.230(B). The statement shall be in writing and shall
38 indicate the specific exemption of this Program that is being applied to the
39 development, and shall provide a summary of the Shoreline Administrator's
40 analysis of the consistency of the project with this Program and the Act. The
41 letter shall be sent to the applicant and maintained on file in the offices of the
42 Shoreline Administrator.

- 1 (c) Statements of exemption may contain conditions and/or mitigating measures
2 of approval to achieve consistency and compliance with the provisions of this
3 Program and the Act
- 4 (d) A denial of an exemption shall be in writing and shall identify the reason(s)
5 for the denial. The Shoreline Administrator's decision on a statement of
6 exemption is not subject to administrative appeal.
- 7 (e) Exempt activities shall not be conducted until a statement of exemption has
8 been obtained from the Shoreline Administrator.
- 9 (3) Interpretations of Exemptions
- 10 (a) Exemptions shall be construed narrowly. Only those developments that meet
11 the precise terms of one or more of the listed exemptions may be granted
12 exemption from the Shoreline Substantial Development Permit process.
- 13 (b) A development or use that is listed as a conditional use pursuant to this SMP
14 or is an unlisted use, must obtain a Shoreline Conditional Use Permit even
15 though the development or use does not require a Shoreline Substantial
16 Development Permit. When a development or use is proposed that does not
17 comply with the bulk, dimensional and performance standards of this SMP,
18 such development or use can only be authorized by approval of a Shoreline
19 Variance.
- 20 (c) The burden of proof that a development or use is exempt from the permit
21 process is on the applicant.
- 22 (d) If any part of a proposed development is not eligible for exemption, then a
23 Shoreline Substantial Development Permit is required for the entire proposed
24 development project.
- 25 (e) The City may attach conditions to the approval of exempted developments
26 and/or uses as necessary to assure consistency of the project with the SMA
27 and this SMP. Additionally, nothing shall interfere with each responsible local
28 government's ability to require compliance with all other applicable laws and
29 plans.
- 30 (4) The City shall exempt from the Shoreline Substantial Development Permit
31 requirement the shoreline developments listed below:
- 32 (a) Any development of which the total cost or fair market value does not exceed
33 six thousand, four hundred, sixteen dollars (\$6,416) or as adjusted by the State
34 Office of Financial Management, if such development does not materially
35 interfere with the normal public use of the water or shorelines of the state. For
36 purposes of determining whether or not a permit is required, the total cost or
37 fair market value shall be based on the value of development that is occurring
38 on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost
39 or fair market value of the development shall include the fair market value of
40 any donated, contributed, or found labor, equipment or materials.
- 41 (b) Normal maintenance or repair of existing legally-established structures or
42 developments, including damage by accident, fire, or elements except as

1 mentioned in ECMC 16.20.610, Nonconforming Use. Replacement of a
2 structure or development may be authorized as repair where such replacement
3 is the common method of repair for the type of structure or development and
4 the replacement structure or development is comparable to the original
5 structure or development including but not limited to its size, shape,
6 configuration, location, and external appearance and the replacement does not
7 cause substantial adverse effects to shoreline resources or environment.

8 (c) Construction of a normal protective bulkhead common to single-family
9 residences. A "normal protective" bulkhead includes those structural and
10 nonstructural developments installed at or near, and parallel to, the ordinary
11 high water mark for the sole purpose of protecting an existing single-family
12 residence and appurtenant structures from loss or damage by erosion. A
13 normal protective bulkhead is not exempt if constructed for the purpose of
14 creating dry land. When a vertical or near vertical wall is being constructed or
15 reconstructed, not more than one (1) cubic yard of fill per one (1) foot of wall
16 may be used as backfill. When an existing bulkhead is being repaired by
17 construction of a vertical wall fronting the existing wall, it shall be
18 constructed no further waterward of the existing bulkhead than is necessary
19 for construction of new footings. When a bulkhead has deteriorated such that
20 an ordinary high water mark has been established by the presence and action
21 of water landward of the bulkhead then the replacement bulkhead must be
22 located at or near the actual ordinary high water mark. Beach nourishment and
23 bioengineered erosion control projects may be considered a normal protective
24 bulkhead when any structural elements are consistent with the above
25 requirements and when the project has been approved by the Department of
26 Fish and Wildlife (WDFW).

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

41 (e) Construction or modification of navigational aids such as channel markers and
42 anchor buoys.

43 (f) Construction on shorelands by an owner, lessee, or contract purchaser of a
44 single-family residence or appurtenance for their own use or for the use of
45 their family, which residence does not exceed a height of thirty-five (35) feet

1 above average grade level, and which meets all requirements of the City, other
2 than requirements imposed pursuant to RCW 90.58. Construction authorized
3 under this exemption shall be located landward of the ordinary high water
4 mark.

- 5 (g) The marking of property lines or corners on state-owned lands, when such
6 marking does not significantly interfere with normal public use of the surface
7 of the water.
- 8 (h) Any project with a certification from the governor pursuant to RCW 80.50
9 (certification from the State Energy Facility Site Evaluation Council).
- 10 (i) Site exploration and investigation activities that are prerequisite to preparation
11 of an application for development authorization under this chapter, if:
- 12 (i) The activity does not interfere with the normal public use of surface
13 waters;
- 14 (ii) The activity will have no significant adverse impact on the
15 environment including but not limited to fish, wildlife, fish or wildlife
16 habitat, water quality, and aesthetic values;
- 17 (iii) The activity does not involve the installation of any structure, and
18 upon completion of the activity the vegetation and land configuration
19 of the site are restored to conditions existing before the activity; and
- 20 (iv) A private entity seeking development authorization under this section
21 first posts a performance bond or provides other evidence of financial
22 responsibility to the local jurisdiction to assure that the site is restored
23 to preexisting conditions.
- 24 (j) The process of removing or controlling aquatic noxious weeds, as defined in
25 RCW 17.26.020, through the use of an herbicide or other treatment methods
26 applicable to weed control published by the Departments of Agriculture or
27 Ecology jointly with other state agencies under RCW 43.21C.
- 28 (k) Watershed restoration projects as defined in RCW 89.08.460.
- 29 (l) A public or private project that is designed to improve fish or wildlife habitat
30 or fish passage when all of the following apply:
- 31 (i) The project has been approved by WDFW.
- 32 (ii) The project has received hydraulic project approval (HPA) by WDFW
33 pursuant to RCW 77.55.
- 34 (iii) Electric City has determined that the project is substantially consistent
35 with the local shoreline master program. Electric City shall make such
36 determination in a timely manner and provide it by letter to the
37 applicant.
- 38 (iv) Fish habitat enhancement projects that conform to the provisions of
39 RCW 77.55.181 are determined to be consistent with local shoreline
40 master programs.

- 1 (m) Any person conducting a remedial action at a facility pursuant to a consent
2 decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology
3 when it conducts a remedial action under RCW 70.105D.
- 4 (n) Other than conversions to non-forest land use, forest practices regulated under
5 RCW 76.09 are not subject to additional regulations under the Act or this
6 Program (90.58.030(2)(d)(ii)).

7 **16.20.790 Initiation of Development**

- 8 (1) Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline
9 Variance, issued by local government shall contain a provision that construction
10 pursuant to the permit shall not begin and is not authorized until twenty-one (21) days
11 from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC
12 173-27-130, or until all review proceedings initiated within twenty-one (21) from the
13 date of receipt of the decision, except as provided in RCW 90.58.140(5)(a) and (b).
14 The date of receipt for a Substantial Development Permit means that date the
15 applicant receives written notice from Ecology that it has received the decision. With
16 regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of
17 receipt means the date a responsible local government or applicant receives the
18 written decision of Ecology.
- 19 (2) Permits for Substantial Development, Shoreline Conditional use, or Shoreline
20 Variance may be in any form prescribed and used by the City including a combined
21 permit application form. Such forms will be supplied by the City.
- 22 (3) A permit data sheet shall be submitted to Ecology with each shoreline permit. The
23 permit data sheet form shall be consistent with WAC 173-27-990.

24 **16.20.800 Review Process**

- 25 (1) After the City's approval of a Shoreline Conditional Use or Variance Permit, the City
26 shall submit the permit to the Department of Ecology for approval, approval with
27 conditions, or denial. Ecology shall render and transmit to the City and the applicant
28 its final decision approving, approving with conditions, or disapproving the permit
29 within thirty days of the date of submittal by the City pursuant to WAC 173-27-110.
- 30 (2) The Department of Ecology shall review the complete file submitted by the City on
31 Shoreline Conditional Use or Variance Permits and any other information submitted
32 or available that is relevant to the application. Ecology shall base its determination to
33 approve, approve with conditions or deny a conditional use permit or variance on
34 consistency with the policy and provisions of the SMA and, except as provided in
35 WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.
- 36 (3) The City shall provide timely notification of the Department of Ecology's final
37 decision to those interested persons having requested notification from local
38 government pursuant to WAC 173-27-130.

39 **16.20.810 Appeals**

- 40 (1) Appeals of Shoreline Permit Decisions. Electric City's decisions on Shoreline permits
41 may be appealed to the following 'bodies' in this sequence, as applicable:

- 1 (a) Electric City Hearings Examiner or in accordance with Electric City
- 2 Municipal Code Chapter 19.11.
- 3 (b) State Shorelines Hearings Board (SHB) in Tumwater
- 4 (c) SHB decisions may be appealed to superior court.
- 5 (d) Superior court decisions may be appealed to the Court of Appeals
- 6 (e) Appeals Court decisions may be appealed to the Washington Supreme Court
- 7 (f) Appeals to the SHB and courts are governed by RCW 90.58.180, RCW
- 8 43.21B.001, RCW 34.05 Part V, and WAC 461.08.
- 9 (2) All requests for review of any final permit decisions under chapter 90.58 RCW and
- 10 chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180
- 11 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines
- 12 hearings board.

13 **16.20.820 Amendments to Permits**

- 14 (1) A permit revision is required whenever the applicant proposes substantive changes to
- 15 the design, terms or conditions of a project from that which is approved in the permit.
- 16 Changes are substantive if they materially alter the project in a manner that relates to
- 17 its conformance to the terms and conditions of the permit, the SMP and/or the
- 18 policies and provisions of chapter 90.58 RCW. Changes which are not substantive in
- 19 effect do not require approval of a revision.
- 20 (2) Revisions to permits shall be considered consistent with WAC 173-27-100.

21 **16.20.830 Enforcement**

- 22 (1) The Act provides for a cooperative program between the City and the Department of
- 23 Ecology to implement and enforce the provisions of the Act and this Master Program.
- 24 This Section provides for a variety of means of enforcement, including civil and
- 25 criminal penalties, orders to cease and desist, and orders to take corrective action, in
- 26 accordance with WAC 173-27-270, 173-27-280, 173-27-290, 173-27-300 and
- 27 Electric City’s Municipal Code 18.80.090. The enforcement means and penalties
- 28 provided herein are not exclusive and may be taken or imposed in conjunction with,
- 29 or in addition to, any other civil enforcement actions and civil penalties, injunctive or
- 30 declaratory relief, criminal prosecution, actions to recover civil or criminal penalties,
- 31 or any other action or sanction authorized by this Section, or any other provision of
- 32 the Electric City’s Municipal Code, or any other provision of state or federal law and
- 33 regulation.
- 34 (2) The Shoreline Administrator, with the assistance of the City attorney, shall have
- 35 authority to commence and prosecute any enforcement action authorized by this
- 36 section. In determining the appropriate enforcement actions to be commenced and
- 37 prosecuted, the Administrator shall consider the following factors:
 - 38 (a) The nature of the violation;

- 1 (b) The extent of damage or potential future risk to the shoreline environment and
2 its ecological functions or to the public health and safety, caused by or
3 resulting from, whether directly or indirectly, the alleged violation;
- 4 (c) The existence of knowledge, intent, or malice on behalf of the violator;
- 5 (d) The economic benefit or advantage that accrued to the violator(s) as a result
6 of the violation; and
- 7 (e) The estimated actions and costs of providing adequate mitigation, restoration,
8 rehabilitation, or enhancement, to repair or minimize any substantial adverse
9 impacts upon the shoreline environment and its ecological functions, or the
10 public health and safety.
- 11 (3) The Shoreline Administrator may commence and prosecute enforcement action
12 jointly with the Department of Ecology. Pursuant to WAC Chapter 173-27, the
13 Department of Ecology may initiate and prosecute enforcement action separate from
14 the Shoreline Administrator.

15 **16.20.840 Cumulative Effects of Shoreline Developments**

- 16 (1) The City will periodically evaluate the effectiveness of the Shoreline Master Program
17 update for achieving no net loss of shoreline ecological functions with respect to
18 shoreline permitting and exemptions in order to comply with WAC 173-26-
19 191(2)(a)(iii)(D).
- 20 (2) The Shoreline Administrator, will, to the extent feasible, coordinate with other City
21 departments or as adjacent jurisdictions, to assess cumulative effects of shoreline
22 development.

23 **16.20.850 Amendments to Shoreline Master Program**

- 24 (1) Amendments to the Program shall be processed as legislative decisions pursuant to
25 WAC 173-26-110 as mentioned in this subsection. A complete submittal shall include
26 two copies of the following, where applicable:
- 27 (a) Documentation (i.e., signed resolution or ordinance) that the proposal has
28 been approved by the local government.
- 29 (b) If the proposal includes text amending a master program document of record,
30 it shall be submitted in a form that can replace or be easily incorporated within
31 the existing document.
- 32 (c) Amended text shall show strikeouts for deleted text and underlining for new
33 text, clearly identifying the proposed changes. At the discretion of the
34 department, strikeouts and underlined text may not be required provided the
35 new or deleted portions of the master program are clearly identifiable.
- 36 (d) Amended environment designation map(s), showing both existing and
37 proposed designations, together with corresponding boundaries described in
38 text for each change of environment. All proposals for changes in
39 environment designation and redesignation shall provide written justification
40 for such based on existing development patterns, the biophysical capabilities
41 and limitations of the shoreline being considered, and the goals and

1 aspirations of the local citizenry as reflected in the locally adopted
2 comprehensive land use plan.

- 3 (e) A summary of proposed amendments together with explanatory text
4 indicating the scope and intent of the proposal, staff reports, records of the
5 hearing, and/or other materials which document the necessity for the proposed
6 changes to the master program.
- 7 (f) Evidence of compliance with chapter 43.21C RCW, the State Environmental
8 Policy Act, specific to the proposal.
- 9 (g) Evidence of compliance with the public notice and consultation requirements
10 of WAC 173-26-100.
- 11 (h) Copies of all public, agency and tribal comments received, including a record
12 of names and addresses of interested parties involved in the local government
13 review process or, where no comments have been received, a comment to that
14 effect.
- 15 (i) A copy of the master program submittal checklist completed in accordance
16 with WAC 173-26-201 (2)(f) and (3)(a) and (h).
- 17 (j) For comprehensive master program updates, copies of the inventory and
18 characterization, use analysis, restoration plan and cumulative impacts
19 analysis.

- 20 (2) Any locally approved amendments to the SMP will not become effective until
21 approved by the State Department of Ecology.

22 **16.20.860 Definitions**

- 23 (1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.
- 24 (2) "Adjacent," for purposes of applying Article V – Critical Areas, means immediately
25 adjoining (in contact with the boundary of the influence area) or within a distance less
26 than that needed to separate activities from critical areas to ensure protection of the
27 functions and values of the critical areas. Adjacent shall mean any activity or
28 development located:
- 29 (a) On-site immediately adjoining a critical area; or
- 30 (b) A distance equal to or less than the required critical area buffer width and
31 building setback.
- 32 (3) "Adoption by rule" means an official action by the department to make a local
33 government shoreline master program effective through rule consistent with the
34 requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby
35 incorporating the adopted shoreline master program or amendment into the state
36 master program.
- 37 (4) "Agency consultation" means consultation with state or federal agencies, including
38 but not limited to those listed below, for the intended purposes. "Agency
39 consultation" does not mean "Endangered Species Section 7 Consultation."

- 1 (a) Washington Department of Fish and Wildlife and/or the U. S. Fish and
2 Wildlife Service for the purpose of making a preliminary determination
3 regarding the presence of priority habitats and species and the potential
4 impacts of a development proposal on such habitats and species.
- 5 (b) The Washington State Department of Natural Resources Natural Heritage
6 Program for the purpose of making a preliminary determination regarding
7 impacts of a development proposal on rare or sensitive plant and animal
8 species associated with wetlands and aquatic ecosystems.
- 9 (c) The Washington State Department of Ecology for the purpose of making a
10 preliminary determination regarding impacts of a development proposal on
11 wetlands and aquatic ecosystems.
- 12 (d) The Washington State Department of Ecology for the purpose of making a
13 preliminary determination regarding impacts of a development on
14 groundwater resources and aquifer recharge areas.
- 15 (e) The Washington State Department of Natural Resources Division of Geology
16 and Earth Science for the purpose of making a preliminary determination
17 regarding geologically hazardous areas, especially earthquakes and seismic
18 activity.
- 19 (f) The Natural Resource Conservation Service for the purpose of making a
20 preliminary determination regarding geologically hazardous areas as they
21 pertain to slope, soil type, other soil characteristics, and other erosive
22 properties of soils.
- 23 (5) "Alteration," for purposes of applying Article V – Critical Areas, means any human-
24 induced change in an existing condition of a critical area or its buffer. Alterations
25 include, but are not limited to: grading, filling, dredging, channelizing, clearing
26 (vegetation), applying pesticides, discharging waste, construction, compaction,
27 excavation, modifying for stormwater management, relocating, or other activities that
28 change the existing landform, vegetation, hydrology, wildlife, or habitat value, of
29 critical areas.
- 30 (6) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an
31 existing shoreline master program.
- 32 (7) "Applicant" means a person who files an application for a permit under this SMP and
33 who is either the owner of the land on which that proposed activity would be located,
34 a contract purchaser, or the authorized agent of such a person.
- 35 (8) "Approval" means an official action by a local government legislative body agreeing
36 to submit a proposed shoreline master program or amendments to the Department of
37 Ecology for review and official action pursuant to this chapter; or an official action by
38 the Department of Ecology to make a local government shoreline master program
39 effective, thereby incorporating the approved shoreline master program or
40 amendment into the state master program.
- 41 (9) "Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants
42 and animals.

- 1 (10) "Aquifer recharge area" means an area that, due to the presence of certain soils,
2 geology, and surface water, acts to recharge ground water by percolation.
- 3 (11) "Assessed value" means assessed valuation shall be as established by the County
4 assessor's office, unless otherwise provided by a market appraisal institute (MAI)
5 appraisal.
- 6 (12) "Associated wetlands" are those wetlands which are in proximity to, and either
7 influence or are influenced by, a stream subject to the Act.
- 8 (13) "Average grade level" means the average of the natural or existing topography of the
9 portion of the lot, parcel, or tract of real property which will be directly under the
10 proposed building or structure: In the case of structures to be built over water,
11 average grade level shall be the elevation of the ordinary high water mark.
12 Calculation of the average grade level shall be made by averaging the ground
13 elevations at the midpoint of all exterior walls of the proposed building or structure.
- 14 (14) "Base flood" means a flood having a one percent chance of being equaled or
15 exceeded in any given year. Also referred to as the "100-year flood." Designated on
16 flood insurance rate maps with the letters A or V.
- 17 (15) "Base flood elevation" means the water surface elevation of the base flood.
18 "Basement" means any area of a building having its floor subgrade (below ground
19 level) on all sides.
- 20 (16) "Best management practices" (BMPs) means conservation practices or systems of
21 practice and management measures that:
- 22 (a) Control soil loss and reduce water quality degradation caused by high
23 concentrations of nutrients, animal waste, toxics, and sediment;
- 24 (b) Minimize adverse impacts on surface water and ground water flow,
25 circulation patterns, and the chemical, physical, and biological characteristics
26 of wetlands;
- 27 (c) Protect trees and vegetation designated to be retained during and following
28 site construction; and
- 29 (d) Provides standards for proper use of chemical herbicides within critical areas.
- 30 (17) "Boating facilities" includes boat launches and upland boat storage, marinas and other
31 boat moorage structures or uses.
- 32 (18) "Breakwater" means an offshore structure whose primary purpose is to protect
33 harbors, moorages and navigation activity from wave and wind action by creating
34 stillwater areas along shore. A secondary purpose is to protect shorelines from wave
35 caused erosion. Breakwaters are generally built parallel to shore, and may or may not
36 be connected to land, and may be floating or stationary.
- 37 (19) "Buffer" means the zone contiguous with a critical area that is required for the
38 continued maintenance, function, and structural stability of the critical area.
- 39 (20) "City" means Electric City.

- 1 (21) "Clearing" means the cutting, killing, grubbing, or removing of vegetation or other
2 organic material by physical, mechanical, chemical, or any other similar means.
- 3 (22) "Community access" means a shoreline access available to a group or community
4 (e.g. home owners association) which may not be accessible to general public.
- 5 (23) "Conservation Easement" - means a reservation or encumbrance on particular piece
6 of real property that precludes building improvement(s) intended for human
7 habitation or other structures or activities that would frustrate the primary purpose of
8 the easement as a buffer.
- 9 (24) "Compensation project" means actions specifically designed to replace project-
10 induced critical area and buffer losses. Compensation project design elements may
11 include, but are not limited to, land acquisition, planning, construction plans,
12 monitoring, and contingency actions.
- 13 (25) "Compensatory mitigation" means types of mitigation used to replace project-induced
14 critical area and buffer losses or impacts.
- 15 (26) "Critical aquifer recharge area (CARA)" means areas designated by WAC 365-190-
16 080(2) that are determined to have critical recharging effect on aquifers used for
17 potable water as defined by WAC 365-190-030(2).
- 18 (27) "Critical facility" means a facility for which even a slight chance of impact from a
19 hazard event might be too great. Critical facilities include, but are not limited to,
20 schools, nursing homes, hospitals, police, fire and emergency installations, and
21 installations that produce, use, or store hazardous materials or hazardous waste.
- 22 (28) "Critical areas" include the following areas and ecosystems: aquifer recharge areas
23 (i.e., areas with a critical recharging effect on aquifers used for potable water); fish
24 and wildlife habitat conservation areas; frequently flooded areas; geologically
25 hazardous areas; and wetlands.
- 26 (29) "Crown" means the area of a tree containing leaf- or needle-bearing branches.
- 27 (30) "Data Maps" means that series of maps maintained by the Town of Hartline for the
28 purpose of graphically depicting the boundaries of resource lands and critical areas.
- 29 (31) "Developable area" means a site or portion of a site that may be utilized as the
30 location of development, in accordance with the rules of this SMP.
- 31 (32) "Development" means a use consisting of the construction or exterior alteration of
32 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or
33 minerals; bulk heading; driving of piling; placing of obstructions; or any project of a
34 permanent or temporary nature which interferes with the normal public use of the
35 surface of the waters overlying lands subject to the act at any stage of water level.
- 36 (33) "Development Application" means an application tendered under the provision of
37 subdivision and zoning ordinances for a conditional use permit, rezone or planned
38 development, or an application submitted pursuant to the subdivision and zoning
39 ordinance for a preliminary major subdivision or short plat.
- 40 (34) "Development permit" means any permit issued by the Town of Coulee City, or other
41 authorized agency, for construction, land use, or the alteration of land.

- 1 (35) "DSH" means the diameter at standard height; the diameter of the trunk measured 54
2 inches (4.5 feet) above grade.
- 3 (36) "Ecological functions" or "shoreline functions" means the work performed or role
4 played by the physical, chemical, and biological processes that contribute to the
5 maintenance of the aquatic and terrestrial environments that constitute the shoreline's
6 natural ecosystem.
- 7 (37) "Ecology" means the Washington State Department of Ecology.
- 8 (38) "Ecosystem-wide processes" means the suite of naturally occurring physical and
9 geologic processes of erosion, transport, and deposition; and specific chemical
10 processes that shape landforms within a specific shoreline ecosystem and determine
11 both the types of habitat and the associated ecological functions.
- 12 (39) "Erosion" means the process by which soil particles are mobilized and transported by
13 natural agents such as wind, rain, frost action, or stream flow.
- 14 (40) "Erosion hazard area" means those areas that, because of natural characteristics
15 including vegetative cover, soil texture, slope gradient, and rainfall patterns, or
16 human-induced changes to such characteristics, are vulnerable to erosion.
- 17 (41) "Feasible" means, for the purpose of this chapter, that an action, such as a
18 development project, mitigation, or preservation requirement, meets all of the
19 following conditions: (a) The action can be accomplished with technologies and
20 methods that have been used in the past in similar circumstances, or studies or tests
21 have demonstrated in similar circumstances that such approaches are currently
22 available and likely to achieve the intended results; (b) The action provides a
23 reasonable likelihood of achieving its intended purpose; and (c) The action does not
24 physically preclude achieving the project's primary intended legal use. In cases where
25 these guidelines require certain actions unless they are infeasible, the burden of
26 proving infeasibility is on the applicant. In determining an action's infeasibility, the
27 reviewing agency may weigh the action's relative public costs and public benefits,
28 considered in the short- and long-term time frames.
- 29 (42) "FEMA – Federal Emergency Management Agency" means the agency that oversees
30 the administration of the National Flood Insurance Program (44 CFR).
- 31 (43) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining
32 structure, or other material to an area waterward of the OHWM, in wetlands, or on
33 shorelands in a manner that raises the elevation or creates dry land.
- 34 (44) "Fish and wildlife habitat conservation areas" means areas necessary for maintaining
35 species in suitable habitats within their natural geographic distribution so that isolated
36 subpopulations are not created as designated by WAC 365-190-080(5). These areas
37 include:
- 38 (a) Federally designated endangered, threatened and sensitive species. Areas
39 with which federally designated endangered, threatened and sensitive species
40 have a primary association. Federally designated endangered and threatened
41 species are those fish and wildlife species identified by the U.S. Fish and
42 Wildlife Service and the National Marine Fisheries Service that are in danger

1 of extinction or threatened to become endangered. The U.S. Fish and Wildlife
2 Service and the National Marine Fisheries Service should be consulted for
3 current listing status.

4 (b) State designated endangered, threatened and sensitive species. Areas with
5 which state designated endangered, threatened and sensitive species have a
6 primary association.

7 (c) State designated endangered, threatened, and sensitive species are those fish
8 and wildlife species native to the state of Washington identified by the
9 Washington Department of Fish and Wildlife, that are in danger of extinction,
10 threatened to become endangered, vulnerable, or declining and are likely to
11 become endangered or threatened in a significant portion of their range within
12 the state without cooperative management or removal of threats. State
13 designated endangered, threatened, and sensitive species are periodically
14 recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-
15 011 (state threatened and sensitive species). The state Department of Fish and
16 Wildlife maintains the most current listing and should be consulted for current
17 listing status.

18 (d) State Priority Habitats and Areas Associated With State Priority Species.
19 Priority habitats and species are considered to be priorities for conservation
20 and management. Priority species require protective measures for their
21 perpetuation due to their population status, sensitivity to habitat alteration,
22 and/or recreational, commercial, or tribal importance. Priority habitats are
23 those habitat types or elements with unique or significant value to a diverse
24 assemblage of species. A priority habitat may consist of a unique vegetation
25 type or dominant plant species, a described successional stage, or a specific
26 structural element. Priority habitats and species are identified by the state
27 Department of Fish and Wildlife.

28 (e) Habitats and Species of Local Importance. Habitats and species of local
29 importance are those identified by the city, including but not limited to those
30 habitats and species that, due to their population status or sensitivity to habitat
31 manipulation, warrant protection. Habitats may include a seasonal range or
32 habitat element with which a species has a primary association, and which, if
33 altered, may reduce the likelihood that the species will maintain and reproduce
34 over the long-term.

35 (f) All areas within the city meeting the definition of one or more critical areas
36 defined above are hereby designated critical areas and are subject to the
37 provisions of the SMP.

38 (45) “Flood event” means any rise in the surface elevation of a water body to a level that
39 causes the inundation or submersion of areas normally above the Ordinary High
40 Water Mark.

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

- 1 (47) “Flood hazard area” means any area subject to inundation by the base flood or risk
2 from channel migration including, but not limited to, an aquatic area, wetland, or
3 closed depression.
- 4 (48) “Flood insurance rate map (FIRM)” means the official map on which the Federal
5 Insurance and Mitigation Administration has delineated both the areas of special
6 flood hazard and the risk premium zones (44 CFR Part 59).
- 7 (49) “Flood insurance study” means the official report provided by the Federal Insurance
8 and Mitigation Administration that includes the flood profiles, the FIRM, and the
9 water surface elevation of the base flood (44 CFR Part 59).
- 10 (50) “Flood protection elevation” means an elevation that is one foot or more above the
11 base flood elevation.
- 12 (51) "Flood plain" is synonymous with one hundred-year floodplain and means that land
13 area susceptible to inundation with a one percent chance of being equaled or
14 exceeded in any given year. The limit of this area shall be based upon flood ordinance
15 regulation maps or a reasonable method which meets the objectives of the act.
- 16 (52) “Floodproofing” means adaptations that ensure a structure is substantially resistant to
17 the passage of water below the flood protection elevation and resists hydrostatic and
18 hydrodynamic loads and effects of buoyancy.
- 19 (53) “Floodway” means the area, as identified in a master program, that either: (i) Has
20 been established in federal emergency management agency flood insurance rate maps
21 or floodway maps; or (ii) consists of those portions of a river valley lying stream
22 ward from the outer limits of a watercourse upon which flood waters are carried
23 during periods of flooding that occur with reasonable regularity, although not
24 necessarily annually, said floodway being identified, under normal condition, by
25 changes in surface soil conditions or changes in types or quality of vegetative ground
26 cover condition, topography, or other indicators of flooding that occurs with
27 reasonable regularity, although not necessarily annually. Regardless of the method
28 used to identify the floodway, the floodway shall not include those lands that can
29 reasonably be expected to be protected from flood waters by flood control devices
30 maintained by or maintained under license from the federal government, the state, or
31 a political subdivision of the state.
- 32 (54) “Floodway dependent structure,” for purposes of applying Article V – Critical Areas,
33 means structures such as, but not limited to, dams, levees and pump stations, stream
34 bank stabilization, and related recreational structures, bridge piers and abutments, and
35 fisheries enhancement or stream restoration projects.
- 36 (55) “Formation” means an assemblage of earth materials grouped together into a unit that
37 is convenient for description or mapping.
- 38 (56) “Formation, confining” means the relatively impermeable formation immediately
39 overlaying a confined aquifer.
- 40 (57) “Frequently flooded areas” means lands in the floodplain subject to a one percent or
41 greater chance of flooding in any given year and those lands that provide important
42 flood storage, conveyance, and attenuation functions, as determined by the Shoreline

1 Administrator, in accordance with WAC 365-190-080(3). Classifications of
2 frequently flooded areas include, at a minimum, the 100-year floodplain designations
3 of the Federal Emergency Management Agency (FEMA) and National Flood
4 Insurance Protection (NFIP).

5 (58) “Functions” and “values,” for purposes of applying Article V – Critical Areas, mean
6 the beneficial roles served by critical areas, including, but not limited to, water quality
7 protection and enhancement, fish and wildlife habitat, food chain support,
8 conveyance and attenuation, ground water recharge and discharge, erosion control,
9 and recreation. “Functions” and “values” may be considered independently, with
10 functions being measured indicators such as water quality, hydrologic functions, and
11 habitat functions and values being nonmeasured indicators such as local importance,
12 potential qualities, or recreational benefits.

13 (59) “Geologically hazardous areas” means areas susceptible to erosion, sliding,
14 earthquake, or other geological events. They pose a threat to the health and safety of
15 citizens when incompatible commercial, residential, or industrial development is sited
16 in areas of significant hazard.

17 (60) "Geotechnical report" or "geotechnical analysis" means a scientific study or
18 evaluation conducted by a qualified expert that includes a description of the ground
19 and surface hydrology and geology, the affected land form and its susceptibility to
20 mass wasting, erosion, and other geologic hazards or processes, conclusions and
21 recommendations regarding the effect of the proposed development on geologic
22 conditions, the adequacy of the site to be developed, the impacts of the proposed
23 development, alternative approaches to the proposed development, and measures to
24 mitigate potential site-specific and cumulative geological and hydrological impacts of
25 the proposed development, including the potential adverse impacts on adjacent and
26 down-current properties. Geotechnical reports shall conform to accepted technical
27 standards and must be prepared by qualified professional engineers or geologists who
28 have professional expertise about the regional and local shoreline geology and
29 processes.

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

33 (62) “Groin” means a barrier type of structure extending from the stream bank into a
34 waterbody for the purpose of the protection of a shoreline and adjacent uplands by
35 influencing the movement of water or deposition of materials.

36 (63) “Ground cover” means all types of vegetation other than trees.

37 (64) "Guidelines" means those standards adopted by the department to implement the
38 policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior
39 to adoption of master programs. Such standards shall also provide criteria for local
40 governments and the department in developing and amending master programs.

41 (65) “Hazard areas” means areas designated as geologically hazardous areas due to
42 potential for erosion, landslide, seismic activity, mine collapse, or other geologically
43 hazardous conditions, including steep slopes.

- 1 (66) “Hazard tree” means any tree with any significant structural defect, disease, extreme
2 size or combinations of these which make it subject to failure, as determined by the
3 Shoreline Administrator or her/his designee.
- 4 (67) “Hazardous substance(s)” means:
- 5 (a) A hazardous substance as defined by Section 101(14) of the Comprehensive
6 Environmental Response, Compensation, and Liability Act (CERCLA); any
7 substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act
8 (CWA); any hazardous waste having the characteristics identified under or
9 listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not
10 including any waste the regulation of which under the Solid Waste Disposal
11 Act has been suspended by Act of Congress); any toxic pollutant listed under
12 Section 307(a) of the CWA; or any imminently hazardous chemical substance
13 or mixture with respect to which the United States Environmental Protection
14 Agency has taken action pursuant to Section 7 of the Toxic Substances
15 Control Act;
- 16 (b) Hazardous substances that include any liquid, solid, gas, or sludge, including
17 any material, substance, product, commodity, or waste, regardless of quantity,
18 that exhibits any of the physical, chemical, or biological properties described
19 in WAC 173-303-090, 173-303-102, or 173-303-103.
- 20 (68) “High-intensity land use” means land uses consisting of commercial, urban,
21 industrial, institutional, retail, residential with more than one unit per acre,
22 agricultural (dairies, nurseries, raising and harvesting crops, requiring annual tilling,
23 raising and maintaining animals), high-intensity recreation (golf courses, ball fields),
24 and hobby farms.
- 25 (69) “Heavy equipment” means such construction machinery as backhoes, treaded
26 tractors, dump trucks, and front-end loaders.
- 27 (70) “Hydraulic project approval (HPA)” means a permit issued by the state of
28 Washington’s Department of Fish and Wildlife for modification to waters of the state
29 in accordance with Chapter 75.20 RCW.
- 30 (71) “Impervious surface area” means any non-vertical surface artificially covered or
31 hardened so as to prevent or impede the percolation of water into the soil mantle
32 including, but not limited to, roof tops, swimming pools, paved or graveled roads and
33 walkways or parking areas, and excluding landscaping and surface water
34 retention/detention facilities.
- 35 (72) “In-stream structures” function for the impoundment, diversion, or use of water for
36 hydroelectric generation and transmission (including both public and private
37 facilities), flood control, irrigation, water supply (both domestic and industrial),
38 recreation, or fisheries enhancement
- 39 (73) “Isolated wetland” means those wetlands and their buffers that are outside of the
40 following critical areas and their buffers, where applicable: lake, river, stream, or
41 wetland. Isolated wetlands have no contiguous hydric soil or hydrophytic vegetation
42 between the wetland and any surface water.

- 1 (74) "Landslide" means episodic down slope movement of a mass of soil or rock that
2 includes, but is not limited to, rock falls, slumps, mudflows, and earth flows.
- 3 (75) "Landslide hazard areas" means areas that are potentially subject to risk of mass
4 movement due to a combination of geologic, topographic, and hydrologic factors.
- 5 (76) "Low-intensity land use" includes, but is not limited to, forestry and open space (such
6 as passive recreation and natural resources preservation).
- 7 (77) "May" means the action is acceptable, provided it conforms to the provisions of this
8 chapter.
- 9 (78) "Mine Hazard Area" - areas underlain by, adjacent to, or affected by, mine workings
10 such as adits, gangways, tunnels, drifts or air shafts.
- 11 (79) "Minor utility project" means the placement of a utility pole, street sign, anchor,
12 vault, or other small component of a utility facility, where the disturbance of an area
13 is less than 75 square feet.
- 14 (80) "Mitigation sequencing" means the process of avoiding, reducing, or compensating
15 for the adverse environmental impact(s) of a proposal, including the following
16 actions, listed in the order of preference, a. being the most preferred:
- 17 (a) avoiding the adverse impact altogether by not taking a certain action or parts
18 of an action;
- 19 (b) minimizing adverse impacts by limiting the degree or magnitude of the action
20 and its implementation by using appropriate technology or by taking
21 affirmative steps to avoid or reduce impacts;
- 22 (c) rectifying the adverse impact by repairing, rehabilitating, or restoring the
23 affected environment;
- 24 (d) reducing or eliminating the adverse impact over time by preservation and
25 maintenance operations during the life of the action;
- 26 (e) compensating for the adverse impact by replacing, enhancing, or providing
27 substitute resources or environments; and
- 28 (f) monitoring the adverse impact and the compensation projects and taking
29 appropriate corrective measures.
- 30 (81) "Moderate-intensity land use" includes, but is not limited to, residential at a density
31 of one unit per acre or less, moderate intensity open space (parks), agriculture
32 (moderate intensity land uses such as orchards and hay fields).
- 33 (82) "Monitoring" means the collection of data by various methods for the purpose of
34 understanding natural systems and features, evaluating the impact of development
35 proposals on such systems, and/or assessing the performance of mitigation measures
36 imposed as conditions of development.
- 37 (83) "Must" means a mandate; the action is required.

- 1 (84) "Native growth protection easement (NGPE)" means an easement granted to the
2 Town of Coulee City for the protection of native vegetation within a critical area or
3 its associated buffer.
- 4 (85) "Native vegetation" means plant species that are indigenous to the region.
- 5 (86) "Nonconforming use or development" means a shoreline use or development which
6 was lawfully constructed or established prior to the effective date of the act or the
7 applicable master program, or amendments thereto, but which does not conform to
8 present regulations or standards of the program. Residential structures and
9 appurtenant structures that were legally established and are used for a conforming
10 use, but that do not meet standards for the following are considered conforming
11 structures: setbacks, buffers, or yards; area; bulk; height; or density.
- 12 (87) "New construction" means structures for which the start of construction commenced
13 on or after the effective date of the ordinance codified in this SMP.
- 14 (88) "Non-water-oriented uses" means those uses that are not water-dependent, water-
15 related, or water-enjoyment.
- 16 (89) "Normal maintenance" means those usual acts that are necessary to prevent a
17 property's decline, lapse, or cessation from a lawfully established condition.
- 18 (90) "Normal repair" means to restore a structure or development to a state comparable to
19 its original condition including, but not limited to, its size, shape, configuration,
20 location and external appearance, within a reasonable period after decay or partial
21 destruction, except where repair causes substantial adverse impacts on shoreline
22 resources or environment. Replacement of a structure or development may be
23 authorized as repair where such replacement is the common method of repair for the
24 type of structure or development, and the replacement structure or development is
25 comparable to the original structure or development including, but not limited to, its
26 size, shape, configuration, location and external appearance and the replacement does
27 not cause substantial adverse impacts on shoreline resources or environment.
- 28 (91) "Ordinary high water mark (OHWM)" means that mark that will be found by
29 examining the bed and banks and ascertaining where the presence and action of
30 waters are so common and usual, and so long continued in all ordinary years, as to
31 mark upon the soil a character distinct from that of the abutting upland, in respect to
32 vegetation as that condition exists on June 1, 1971, as it may naturally change or
33 change through Banks Lake hydrology thereafter, or as it may change thereafter in
34 accordance with permits issued by a local government or the department. Where the
35 OHWM cannot be found, it shall be the line of mean high water. For braided streams,
36 the OHWM is found on the banks forming the outer limits of the depression within
37 which the braiding occurs. The OHWM for Banks Lake is measured at 1570 feet
38 level.
- 39 (92) "Practical alternative" means an alternative that is available and capable of being
40 carried out after taking into consideration cost, existing technology, and logistics in
41 light of overall project purposes, and having less impact on critical areas.

- 1 (93) "Primitive trail" means unimproved, unpaved but physically defined pathway for
2 non-motorized movement.
- 3 (94) "Priority habitat" means a habitat type with unique or significant value to one or more
4 species. An area classified and mapped as priority habitat must have one or more of
5 the following attributes: • Comparatively high fish or wildlife density; •
6 Comparatively high fish or wildlife species diversity; • Fish spawning habitat; •
7 Important wildlife habitat; • Important fish or wildlife seasonal range; • Important fish
8 or wildlife movement corridor; • Rearing and foraging habitat; • Refugia habitat; •
9 Limited availability; • High vulnerability to habitat alteration; • Unique or dependent
10 species; or. A priority habitat may be described by a unique vegetation type or by a
11 dominant plant species that is of primary importance to fish and wildlife. A priority
12 habitat may also be described by a successional stage (such as, old growth and mature
13 forests). Alternatively, a priority habitat may consist of a specific habitat element
14 (such as caves, snags) of key value to fish and wildlife. A priority habitat may contain
15 priority and/or non-priority fish and wildlife.
- 16 (95) "Priority species" means species requiring protective measures and/or management
17 guidelines to ensure their persistence at genetically viable population levels. Priority
18 species are those that meet any of the criteria listed below.
- 19 (a) Criterion 1. State-listed or state proposed species. State-listed species are
20 those native fish and wildlife species legally designated as endangered (WAC
21 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011).
22 State proposed species are those fish and wildlife species that will be reviewed
23 by the department of fish and wildlife (POL-M-6001) for possible listing as
24 endangered, threatened, or sensitive according to the process and criteria
25 defined in WAC 232-12-297.
- 26 (b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those
27 species or groups of animals susceptible to significant population declines,
28 within a specific area or statewide, by virtue of their inclination to congregate.
- 29 (c) Criterion 3. Species of recreational, commercial, and/or tribal importance.
30 Native and nonnative fish, shellfish, and wildlife species of recreational or
31 commercial importance and recognized species used for tribal ceremonial and
32 subsistence purposes that are vulnerable to habitat loss or degradation.
- 33 (d) Criterion 4. Species listed under the federal Endangered Species Act as either
34 proposed, threatened, or endangered.
- 35 (96) "Provisions" means policies, regulations, standards, guideline criteria or environment
36 designations.
- 37 (97) "Public Access" means both physical and visual access. Examples are listed 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 land or
41 easement and a physical improvement in the form of a walkway, trail,

- 1 bikeway, park, canoe and kayak hand launch site, or other area serving as a
2 means of physical approach to public waters.
- 3 (98) “Public agency” means every Town, City, state, or federal office, every officer, every
4 institution, whether educational, correctional, or other, and every department,
5 division, board, and commission that provides services or recommendations to the
6 public or other such agencies.
- 7 (99) “Qualified professional” means a person with experience and training in the pertinent
8 discipline, and who is a qualified expert with expertise appropriate for the relevant
9 critical area or shoreline subject. A qualified professional must have obtained a B.S.,
10 B.A. or equivalent degree or certification in biology, engineering, environmental
11 studies, fisheries, geomorphology, landscape architecture, forestry or related field,
12 and two years of related work experience.
- 13 (a) A qualified professional for wildlife, habitats or wetlands must have a degree
14 in biology, zoology, ecology, fisheries, or related field, and professional
15 experience in Washington State.
- 16 (b) A qualified professional for a geological hazard must be a professional
17 engineer or geologist, licensed in the state of Washington.
- 18 (c) A qualified professional for critical aquifer recharge areas means a
19 hydrogeologist, geologist, engineer, or other scientist with experience in
20 preparing hydrogeologic assessments.
- 21 (d) A qualified professional for vegetation management must be a registered
22 landscape architect, certified arborist, biologist, or professional forester with a
23 corresponding degree or certification.
- 24 (100) “Recreational development” means the modification of the natural or existing
25 environment to accommodate commercial and public facilities designed and used to
26 provide recreational opportunities to the public. Commercial recreational
27 development should be consistent with commercial development defined herein.
- 28 (101) “Recreational vehicle” means a vehicle designed primarily for recreational camping,
29 travel, or seasonal use that has its own mode of power or is mounted on or towed by
30 another vehicle, including, but not limited, to travel trailers, folding camping trailer,
31 truck camper, motor home, , and multi-use vehicles.
- 32 (102) “Residential development” entails one or more buildings, structures, lots, parcels or
33 portions thereof that are designed, used or intended to be used as a place of abode for
34 human beings. These include single-family residences, residential subdivisions, short
35 residential subdivisions, attached dwellings, and all accessory uses or structures
36 normally associated with residential uses. Accessory residential uses include, but are
37 not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences,
38 cabanas, saunas and guest cottages. Hotels, motels, dormitories or any other type of
39 overnight or transient housing are excluded from the residential category and must be
40 considered commercial uses depending on project characteristics.
- 41 (103) "Restore", "Restoration" or "ecological restoration" means the reestablishment or
42 upgrading of impaired natural or enhanced ecological shoreline processes or

- 1 functions. This may be accomplished through measures including but not limited to
2 re-vegetation, removal of intrusive shoreline structures and removal or treatment of
3 toxic materials. Restoration does not imply a requirement for returning the shoreline
4 area to aboriginal or pre-European settlement conditions.
- 5 (104) “Riparian habitat” means areas adjacent to aquatic systems with flowing water that
6 contains elements of both aquatic and terrestrial ecosystems that mutually influence
7 each other.
- 8 (105) “Salmonid” means a member of the fish family Salmonidae.
- 9 (106) “Section 404 Permit” means a permit issued by the Army Corp of Engineers for the
10 placement of dredge or fill material waterward of the OHWM or clearing in waters of
11 the United States, including wetlands, in accordance with 33 United States Code
12 (USC) Section 1344.
- 13 (107) “Seismic hazard areas” means areas that are subject to severe risk of damage as a
14 result of earthquake-induced ground shaking, slope failure, settlement, or soil
15 liquefaction.
- 16 (108) "Shall" means a mandate; the action must be done.
- 17 (109) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and
18 "shorelands" as defined in RCW 90.58.030.
- 19 (110) "Shoreline master program" or "master program" means the comprehensive use plan
20 for a described area, and the use regulations together with maps, diagrams, charts, or
21 other descriptive material and text, a statement of desired goals, and standards
22 developed in accordance with the policies enunciated in RCW 90.58.020. As
23 provided in RCW 36.70A.480, the goals and policies of a shoreline master program
24 for a Town or Town approved under chapter 90.58 RCW shall be considered an
25 element of the Town or Town's comprehensive plan. All other portions of the
26 shoreline master program for a Town or Town adopted under chapter 90.58 RCW,
27 including use regulations, shall be considered a part of the Town or Town's
28 development regulations.
- 29 (111) "Shoreline modifications" means those actions that modify the physical configuration
30 or qualities of the shoreline area, usually through the construction of a physical
31 element such as a dike, weir, dredged basin, fill, bulkhead, or other shoreline
32 structure. They can include other actions, such as clearing, grading, or application of
33 chemicals.
- 34 (112) “Shoreline stabilization” means actions taken to address erosion impacts to property
35 and dwellings, businesses, or structures caused by natural processes, such as current,
36 wind, or wave action. These actions include structural and nonstructural methods.
37 Nonstructural methods include building setbacks, relocation of the structure to be
38 protected, ground water management, planning and regulatory measures to avoid the
39 need for structural stabilization.
- 40 (113) "Should" means that the particular action is required unless there is a demonstrated,
41 compelling reason, based on policy of the Shoreline Management Act and this
42 chapter, against taking the action.

- 1 (114) "Significant vegetation removal" means the removal or alteration of trees, shrubs,
2 and/or ground cover by clearing, grading, cutting, burning, chemical means, or other
3 activity that causes significant ecological impacts on functions provided by such
4 vegetation. The removal of invasive or noxious weeds does not constitute significant
5 vegetation removal. Tree pruning, not including tree topping, where it does not affect
6 ecological functions, does not constitute significant vegetation removal.
- 7 (115) "Snag" means the remaining trunk of a dying, diseased, or dangerous tree that is
8 reduced in height and stripped of all live branches
- 9 (116) "Species and habitats of local importance" means those species that may not be
10 endangered, threatened, or critical from a state-wide perspective, but are of local
11 concern due to their population status, sensitivity to habitat manipulation, or other
12 educational, cultural, or historic attributes. These species may be priority habits,
13 priority species, and those habitats and species identified in the critical areas code as
14 having local importance (e.g., elk).
- 15 (117) "Species, threatened and endangered" means those native species that are listed by
16 the State Department of Fish and Wildlife pursuant to RCW 77.12.070 as threatened
17 (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened
18 or endangered under the federal Endangered Species Act (16 U.S.C. 1533).
- 19 (118) "Start of construction" means and includes substantial improvement, and means the
20 date the building permit was issued, provided the actual start of construction, repair,
21 reconstruction, placement, or other improvement was within 180 days of the permit
22 issuance date. For cumulative tracking, the permit may extend beyond the specified
23 time frame to the time of permit completion. The actual start means either the first
24 placement of permanent construction of a structure on a site, such as the pouring of
25 slab or footings, the installation of piles, the construction of columns, or any work
26 beyond the stage of excavation, or the placement of a manufactured home on a
27 foundation. Permanent construction does not include land preparation, such as
28 clearing, grading, and filling, nor does it include the installation of streets and/or
29 walkways, nor does it include excavation for a basement, footings, piers, or
30 foundation or the erection of temporary forms, nor does it include the installation on
31 the property of accessory buildings, such as garages or sheds not occupied as
32 dwelling units or not part of the main structure. For a substantial improvement, the
33 actual start of construction means the first alteration of any wall, ceiling, floor, or
34 other structural part of a building, whether or not that alteration affects the external
35 dimensions of the building.
- 36 (119) "Steep slopes" means those slopes (excluding Town-approved geotechnical
37 engineered slopes) 40 percent or steeper within a vertical elevation change of at least
38 10 feet. A slope is defined by establishing its toe and top and is measured by
39 averaging the inclination over at least 10 feet of vertical relief.
- 40 (120) "Stream" means any portion of a channel, bed, bank, or bottom waterward of the
41 ordinary high water line of waters of the state, including areas in which fish may
42 spawn, reside, or pass, and tributary waters with defined bed or banks, which
43 influence the quality of fish habitat downstream. This includes watercourses which
44 flow on an intermittent basis or which fluctuate in level during the year and applies to

- 1 the entire bed of such watercourse whether or not the water is at peak level. This
2 definition does not include irrigation ditches, canals, storm water run-off devices, or
3 other entirely artificial watercourses, except where they exist in a natural watercourse
4 that has been altered by humans.
- 5 (121) "Structure" means a permanent or temporary edifice or building, or any piece of work
6 artificially built or composed of parts joined together in some definite manner,
7 whether installed on, above, or below the surface of the ground or water.
- 8 (122) "Substantial damage" means damage of any origin sustained by a structure whereby
9 the cost of restoring the structure to its before-damaged condition would equal or
10 exceed 50 percent of the assessed value of the structure before the damage occurred.
- 11 (123) "Substantial improvement" means any repair, reconstruction, rehabilitation, addition,
12 or improvement of a building or structure, the cost of which exceeds 50 percent of the
13 assessed value of the structure before the improvement or repair is started. This term
14 includes structures that have incurred "substantial damage," regardless of the actual
15 repair work performed. The term can exclude:
- 16 (a) Any project for improvement of a structure to comply with existing state or
17 local health, sanitary, or safety code specifications that have been identified
18 by the local code enforcement or building official and are the minimum
19 necessary to assure safe living conditions; or
- 20 (b) Any alteration of a historic structure; provided, that the alteration will not
21 preclude the structure's continued designation as a historic structure.
- 22 (124) "Substantially degrade" means to cause significant ecological impact.
- 23 (125) "Topping" means the severing of main trunks or stems of vegetation at any place
24 above 25 percent of the vegetation height.
- 25 (126) "Transportation facilities" are those structures and developments that provide for the
26 movement of people, goods and services. These include roads and highways, railroad
27 facilities, bridges, parking facilities, bicycle paths, trails and other related facilities.
- 28 (127) "Tree removal" means the removal of a tree, through either direct or indirect actions,
29 including but not limited to: (a) clearing, damaging or poisoning resulting in an
30 unhealthy or dead tree; (b) removal of at least half of the live crown; or (c) damage to
31 roots or trunk that is likely to destroy the tree's structural integrity.
- 32 (128) "Trees" means any living woody plant characterized by one main stem or trunk and
33 many branches and having a diameter of four inches or more measured 24 inches
34 above ground level
- 35 (129) "Unavoidable" means adverse impacts that remain after all appropriate and
36 practicable avoidance and minimization have been achieved.
- 37 (130) "Urban Growth" - means activities that make intensive use of land for the location of
38 building, structures, and impermeable surfaces to such a degree as to be incompatible
39 with the primary use of such land for the production of food, other agricultural
40 products, or fiber, or the extraction of mineral resources.

- 1 (131) "Urban Growth, characterized by" - means lands having urban growth on it, or to land
2 located in relationship to an area with urban growth on it as to be appropriate for
3 urban growth; or any and all incorporated areas.
- 4 (132) "Utility" means a service and/or facility that produces, transmits, carries, stores,
5 processes, or disposes of electrical power, gas, potable water, stormwater,
6 communications (including, but not limited to, telephone and cable), sewage, oil, and
7 the like.
- 8 (133) "Vegetation" means plant life growing below, at, and above the soil surface.
- 9 (134) "Vegetation alteration" means any clearing, grading, cutting, topping, limbing, or
10 pruning of vegetation.
- 11 (135) "Water-dependent use" means a use or portion of a use which cannot exist in a
12 location that is not adjacent to the water and which is dependent on the water by
13 reason of the intrinsic nature of its operations.
- 14 (136) "Water-enjoyment use" means a recreational use or other use that facilitates public
15 access to the shoreline as a primary characteristic of the use; or a use that provides for
16 recreational use or aesthetic enjoyment of the shoreline for a substantial number of
17 people as a general characteristic of the use and which through location, design, and
18 operation ensures the public's ability to enjoy the physical and aesthetic qualities of
19 the shoreline. In order to qualify as a water-enjoyment use, the use must be open to
20 the general public and the shoreline-oriented space within the project must be devoted
21 to the specific aspects of the use that fosters shoreline enjoyment.
- 22 (137) "Water-oriented use" means a use that is water-dependent, water-related, or water-
23 enjoyment, or a combination of such uses.
- 24 (138) "Water quality" means the physical characteristics of water within shoreline
25 jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic,
26 recreation-related, and biological characteristics. Where used in this chapter, the term
27 "water quantity" refers only to development and uses regulated under this chapter and
28 affecting water quantity, such as impermeable surfaces and storm water handling
29 practices. Water quantity, for purposes of this chapter, does not mean the withdrawal
30 of ground water or diversion of surface water pursuant to RCW 90.03.250 through
31 90.03.340.
- 32 (139) "Water-related use" means a use or portion of a use which is not intrinsically
33 dependent on a waterfront location but whose economic viability is dependent upon a
34 waterfront location because:
- 35 (a) The use has a functional requirement for a waterfront location such as the
36 arrival or shipment of materials by water or the need for large quantities of
37 water; or
- 38 (b) The use provides a necessary service supportive of the water-dependent uses
39 and the proximity of the use to its customers makes its services less expensive
40 and/or more convenient.

- 1 (140) “Water resources inventory area (WRIA)” means one of 62 watersheds in the state of
2 Washington, each composed of the drainage areas of a stream or streams, as
3 established in Chapter 173-500 WAC as it existed on January 1, 1997.
- 4 (141) “WDFW” means the Washington Department of Fish and Wildlife.
- 5 (142) “Weir” means a structure generally built perpendicular to the shoreline for the
6 purpose of diverting water or trapping sediment or other moving objects transported
7 by water.
- 8 (143) “Wetlands” are areas that are inundated or saturated by surface or ground water at a
9 frequency and duration sufficient to support, and that under normal circumstances do
10 support, a prevalence of vegetation typically adapted for life in saturated soil
11 conditions. Wetlands generally include swamps, marshes, bogs and similar areas.
12 Wetlands do not include those artificial wetlands intentionally created from
13 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-
14 lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds,
15 and landscape amenities, or those wetlands created after July 1, 1990, that were
16 unintentionally created as a result of the construction of a road, street, or highway.
17 Wetlands may include those artificial wetlands intentionally created from nonwetland
18 areas to mitigate the conversion of wetlands.

19 **16.20.870 Shoreline Environment Designation Map**