

CITY OF SOAP LAKE

DRAFT SHORELINE MASTER PROGRAM



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Prepared for

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

June 2013

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

2 **Introduction**

3 The City of Soap Lake 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 City of Soap Lake adopted its Shoreline Master Program in 1974. The
13 Department of Ecology adopted the 2003 Shoreline Management Act Guidelines (Chapter 173-
14 26 Washington Administrative Code (WAC)) (Guidelines) which require local government
15 review and updates of Shoreline Master Programs. The updated version of the Soap Lake
16 Shoreline Master Program provides goals, policies and regulations for the development of Soap
17 Lake shorelines.

18 **Relationship to GMA**

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

39 **Profile of the Shoreline Jurisdiction within the City of Soap Lake**

40 The Washington State Shoreline Management Act defines the Shoreline of the State as "all
41 'shorelines' and 'shorelines of statewide significance' (SSWS) within the state" (RCW
42 90.58.030). The shoreline includes floodways; land within 200 feet of the ordinary high water

1 mark (OHWM) of the waterways; floodplains up to 200 feet from the floodway edge; and
2 associated wetlands within the 100-year floodplain. Lakes over twenty acres in size and
3 wetlands associated with such small lakes are included as shoreline jurisdiction water bodies.

4 Shorelines of statewide significance (RCW 90.58.030) are those lakes, whether natural, artificial,
5 or a combination thereof, with a surface acreage of one thousand acres or more measured at the
6 ordinary high water mark. The City of Soap Lake's shoreline jurisdiction consists of land within
7 200 feet of the ordinary high water mark of shoreline within the city limits along Soap Lake.
8 Soap Lake shoreline is a shoreline of the state but not a shoreline of Statewide Significance
9 because its surface acreage is less than one thousand acres.

10 **Development of Goals and Policies**

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

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

21 **Economic Development Element**

22 A. Goal A: Support the development of water-oriented commercial services and
23 attractions that serve tourism and support the community's economy and shoreline
24 environment. Utilize the unique attribute of Soap Lake's "Healing Waters" as an
25 economic development theme.

26 B. Goal B: Promote economic growth that conserves natural resources and open spaces,
27 and maintains environmental quality.

28 C. General Economic Development Policies:

29 1. Promote shoreline areas of the City of Soap Lake as an economic asset to the
30 community.

31 2. Promote recreational opportunities and tourist-oriented businesses along
32 shoreline that are compatible with or complement the character and existing
33 uses of critical areas and shoreline.

34 3. Give preference to economic activities which either leave natural shoreline
35 features such as trees, native plants and wildlife habitat unmodified, or which
36 modify them in a way which enhances human awareness and appreciation of
37 the shoreline and other natural and non-natural surroundings.

38 4. Give first preference to water-dependent uses, second preference to water-
39 related or water-enjoyment economic activities, and last preference to non-
40 water-oriented uses in areas where limited commercial development space
41 along shorelines is in demand for a number of competing uses.

- 1 5. Ensure that any economic activity taking place along the shorelines operates
2 without causing irreparable harm to the quantity of the site’s environment or
3 adjacent shorelands.
- 4 6. Where possible, developments are encouraged to incorporate low impact
5 development techniques into new and existing projects and integrate
6 architectural and landscape elements that recognize the river environment.
- 7 7. Require non-water-oriented commercial or recreational development provide
8 for ecological restoration and public access as appropriate.
- 9 D. Commercial Development Policies:
- 10 1. Assure that commercial uses will not result in a net loss of shoreline
11 ecological functions or have significant adverse impacts on navigation,
12 recreation and public access.
- 13 2. Promote water-oriented commercial uses in shoreline areas that support
14 recreation and tourism.
- 15 3. Encourage multi-use commercial projects that include some combination of
16 ecological restoration, public access, open space, and recreation.

17 **Public Access and Recreation Element**

- 18 A. Goal B: Ensure that a diverse public access system to and along Soap Lake is
19 maintained and encouraged that is consistent with private property rights, public
20 safety and the natural shoreline character.
- 21 B. Goal A: Increase diverse, convenient and adequate recreational opportunities along
22 the shorelines of Soap Lake for public.
- 23 C. Policies:
- 24 1. Enhance recreational opportunities and public access to open spaces and
25 shoreline areas.
- 26 2. Promote tourism and recreational opportunities that are compatible with or
27 complement the character and existing uses of shoreline.
- 28 3. Encourage new development to provide links to parks through the
29 development of trails, and tourist recreational opportunities.
- 30 4. Identify opportunities for public access on publicly owned shorelines.
31 Preserve, maintain and enhance public access afforded by shoreline street
32 ends, public utilities and rights-of-way.
- 33 5. Provide physical and visual public access in the shoreline jurisdiction in
34 association with the following uses when feasible: residential developments
35 with five or more dwellings; commercial development; and public agency
36 recreational development.
- 37 6. Provide public access and interpretive displays as part of publicly funded
38 restoration projects where significant ecological impacts are addressed.

- 1 7. Give priority to water-oriented recreational opportunities in order to provide
2 access, use, and enjoyment. Give water-dependent recreation priority over
3 water-enjoyment recreation uses. Give water-enjoyment recreational uses
4 priority over non-water-oriented recreational uses
- 5 8. Allow for passive and active shoreline recreation that emphasizes location
6 along shorelines in association with the City's parks, recreation, wildlife
7 habitat and open space plans.
- 8 9. Promote recreational developments and plans that conserve the shoreline's
9 natural character, ecological functions, and processes.
- 10 10. Integrate and link recreation facilities with linear systems, such as walking
11 trail, bicycle paths, easements, and scenic drives when feasible.

12 **Circulation Element**

- 13 A. Goal A: Implement multi-modal transportation system that provide for mobility
14 and access and that minimize adverse impacts on the shoreline environment.
- 15 B. Policies:
 - 16 1. 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 2. Within the shoreline jurisdiction, locate land circulation systems that are not
21 shoreline dependent as far from the land-water interface as practicable to
22 reduce interference with either natural shoreline resources or other appropriate
23 shoreline uses
 - 24 3. Allow for maintenance and improvements to existing roads and parking areas.
25 Allow for necessary new roads and parking areas where other locations
26 outside of shoreline jurisdiction are not feasible.
 - 27 4. Consider pedestrian, bicycle, and public transportation where appropriate and
28 compatible with the natural character, resources, and ecology of the shoreline.
 - 29 5. Promote existing transportation corridors for reuse for water-dependent uses
30 or public access when they are abandoned.
 - 31 6. Plan parking to achieve optimum use. Where possible, parking should serve
32 more than one use (e.g. serving recreational use on weekends, commercial
33 uses on weekdays).
 - 34 7. Encourage low-impact parking facilities, such as those with permeable
35 pavements and bio-swales.
 - 36 8. Encourage the linkage of shoreline parks, recreation areas, and public access
37 points with linear systems, such as trails, bicycle paths, easements and/or
38 scenic drives.

1 **Shoreline Uses and Modifications Element**

2 A. Goal A: Encourage shoreline development that recognizes the City of Soap Lake's
3 natural and cultural values and its unique aesthetic qualities offered by its variety of
4 shoreline environment

5 1. Ensure that uses, activities and facilities are located on the shorelines in such a
6 manner as to retain or improve the quality of the environment and will
7 maintain or improve the health, safety and welfare of the public.

8 2. Ensure that proposed shoreline uses do not infringe upon the rights of others,
9 upon the rights of private ownership, upon the rights of the public under the
10 Public Trust Doctrine and treaty rights of Indian tribes.

11 B. Shoreline Environment Designation Policies

12 1. Provide a comprehensive shoreline environment designation system to
13 categorize Soap Lake's shorelines into environments based upon the primary
14 characteristics of shoreline areas to guide the use and management of these
15 areas.

16 2. Assign appropriate environment designations for preservation of wildlife
17 habitat area, natural resources and public agency operations.

18 C. Boating Facilities Policies

19 1. Locate and design boating facilities so that their structures and operations will
20 be compatible with the area affected such as environmental conditions,
21 shoreline configuration, access, and neighboring upland and aquatic uses.

22 2. Require restoration activities when substantial improvements or repair to
23 existing boating facilities is planned.

24 3. Boating facilities that minimize the amount of shoreline modification are
25 preferred.

26 4. Boating facilities should provide physical and visual public shoreline access
27 and provide for multiple use, including water-related use, to the extent
28 compatible with shoreline ecological functions and processes and adjacent
29 shoreline use.

30 5. Boating facilities should be located and designed to avoid adverse effects
31 upon riverine, and nearshore processes such as erosion, littoral or riparian
32 transport, and accretion, and, should where feasible, enhance degraded,
33 scarce, and/or valuable shore features including accretion shoreforms.

34 6. Location and design of boating facilities should not unduly obstruct navigable
35 waters and should avoid adverse effects to recreational opportunities such as
36 pleasure boating, commercial aquaculture, swimming, beach walking,
37 picnicking and shoreline viewing.

38 D. Dredging and Dredge Material Disposal Policies

39 1. Dredging and dredge material disposal should avoid and minimize significant
40 ecological impacts. Impacts which cannot be avoided should be mitigated.

- 1 2. Design and locate new shoreline development to avoid the need for dredging.
- 2 3. Limit dredging and dredge material disposal to the minimum necessary to
- 3 allow for shoreline restoration, flood hazard reduction, and maintenance of
- 4 existing legal moorage and navigation. Dredging to provide for new
- 5 navigation uses is prohibited.
- 6 4. Allow dredging for the primary purposes of flood hazard reduction only as
- 7 part of a long-term management strategy consistent with an approved flood
- 8 hazard management plan.
- 9 5. Ensure that dredging operations are planned and conducted in a manner that
- 10 will minimize interference with navigation and that will lessen adverse
- 11 impacts to other shoreline uses.

12 E. Docks and Piers Policies

- 13 1. Moorage associated with a single family residence is considered a water-
- 14 dependent use provided that it is designed and used as a facility to access
- 15 watercraft, and other moorage facilities are not available or feasible. Moorage
- 16 for water-related and water enjoyment uses or shared moorage for multifamily
- 17 use should be allowed as part of a mixed use development or where it
- 18 provides public access.
- 19 2. New moorage, excluding docks accessory to single family residences, should
- 20 be permitted only when the applicant/proponent has demonstrated that a
- 21 specific need exists to support the intended water-dependent or public access
- 22 use.
- 23 3. As an alternative to continued proliferation of individual private moorage,
- 24 mooring buoys are preferred over docks or floats. Shared moorage facilities
- 25 are preferred over single user moorage where feasible, especially where water
- 26 use conflicts exist or are predictable. New subdivisions of more than two (2)
- 27 lots and new multifamily development of more than two (2) dwelling units
- 28 should provide shared moorage where feasible.
- 29 4. Docks, piers, and mooring buoys, including those accessory to single family
- 30 residences, should avoid locations where they will adversely impact shoreline
- 31 ecological functions or processes, including currents and littoral drift.
- 32 5. Moorage should be spaced and oriented in a manner that minimizes hazards
- 33 and obstructions to public navigation rights and corollary rights thereto such
- 34 as, but not limited to swimming and pleasure boating, as well as private
- 35 riparian rights of adjacent land owners.
- 36 6. Moorage should be restricted to the minimum size necessary to meet the needs
- 37 of the proposed use. The length, width, and height of piers and docks should
- 38 be no greater than that required for safety and practicality for the primary use.
- 39 7. Pile supports are preferred over fills because piles do not displace water
- 40 surface and intertidal or aquatic habitat and are removable and thus more
- 41 flexible in terms of long term use patterns. Floats may be less desirable than
- 42 pile structures where aquatic habitat or littoral drift are significant.

- 1 8. The use of buoys for small craft moorage is preferred over pile or float
2 structures because of lesser long term impact on shore features and users;
3 moorage buoys should be placed as close to shore as possible to minimize
4 obstruction to navigation.
- 5 9. Piers and docks should be constructed of materials that will not adversely
6 affect water quality or aquatic plants and animals in the long term.
- 7 10. New pier and dock development should be designed so as not to interfere with
8 lawful public access to or use of shorelines. Developers of new piers and
9 shared moorage should be encouraged to provide physical or visual public
10 access to shorelines whenever safe and compatible with the primary use and
11 shore features.
- 12 F. Fill and Excavation Policies
- 13 1. Limit fill waterward of the OHWM to support ecological restoration or to
14 facilitate water-dependent or public access uses.
- 15 2. Allow fill consistent with floodplain regulations upland of the OHWM
16 provided it is located, designed and constructed to protect shoreline ecological
17 functions and ecosystem-wide processes, including channel migration, and is
18 the minimum necessary to implement an approved project.
- 19 G. Groins and Weirs Policies
- 20 1. To the extent feasible, limit the use of jetties, groins, weirs or other similar
21 structures to those projects providing ecological restoration or other public
22 benefits. These structures should avoid and minimize significant ecological
23 impacts. Impacts which cannot be avoided should be mitigated.
- 24 H. Residential Development Policies
- 25 1. 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 2. Locate and construct residential development in a manner that assures no net
29 loss of shoreline ecological functions.
- 30 3. 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 4. 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 5. Make adequate provisions for services and infrastructure necessary to support
38 residential development.
- 39 6. Design and locate residential development to preserve existing shoreline
40 vegetation, to control erosion, and to protect water quality.

- 1 safety should be the highest priority for the planning, development and
2 operation of primary utility facilities.
- 3 4. 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 5. Locate new utility facilities so as not to require extensive shoreline protection
11 works.
- 12 6. 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 7. Design utility facilities and rights-of-way to preserve the natural landscape
16 and to minimize conflicts with present and planned land uses.

17 L. Existing Uses Policies

- 18 1. 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 2. 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 3. Encourage transitions from nonconforming uses to conforming uses.
- 27 4. Allow for nonconforming structures to expand when they do not increase the
28 nonconformity according to SMP requirements.
- 29 5. 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 6. 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 A. Goal A: The City should conserve or enhance important natural, cultural, and scenic
37 resources; preserve and protect the functions and values of the natural features and
38 maintain a harmonious relationship between the manmade community and the natural
39 environment.

- 1 B. Goal B: The Unique Mineral Content of Soap Lake should be preserved to the
2 greatest extent possible.
- 3 C. Goal C: Wetlands should be protected because they provide important ecological
4 functions that add to the quality of life.
- 5 D. Policies:
 - 6 1. Protect streams, stream corridors, wetlands, natural shorelines, and aquifers.
 - 7 2. Protect soil resources; and unique, diverse or critical wildlife and native plant
8 habitat.
 - 9 3. Enhance the values and functions of parks, wildlife preserves, nature
10 conservancies or sanctuaries, or other open space lands.
 - 11 4. The City should support public and private land trusts in acquiring
12 conservation easements that provide open space attributes, consistent with the
13 intents of property owners.
 - 14 5. The City should support the conservation of open space and resource lands
15 through enrollment in the County's open space taxation program.
 - 16 6. The City of Soap Lake should maintain and enforce those regulations which
17 are intended to preserve the mineral content of Soap Lake.
 - 18 7. Control of erosion at its source as a means of controlling water pollution,
19 flooding, and habitat damage downstream should be encouraged.
 - 20 8. Control stormwater runoff in a manner consistent with low impact
21 development practices which utilize natural detention, retention and recharge
22 techniques to the maximum extent possible.
 - 23 9. Protect shoreline processes and ecological functions through regulatory and
24 non-regulatory means that may include acquisition of key properties,
25 conservation easements, regulation of development within shoreline
26 jurisdiction, and incentives to private property owners to encourage
27 ecologically sound design and implementation of best land management
28 practices.
 - 29 10. Work with other jurisdictional agencies in the region and with the private
30 sector to deal effectively with regional and watershed-wide natural
31 environment issues and the protection, preservation, and
32 restoration/enhancement of all shorelines as aquatic and associated wildlife
33 habitat.
 - 34 11. Enhance and restore areas which are biologically and aesthetically degraded to
35 the greatest extent feasible while maintaining appropriate use of the shoreline.

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

- 37 A. Goal A: Identify, preserve and protect historic, cultural and archaeological resources
38 found to be significant by regional, local, state or federal processes.
- 39 B. Goal B: Encourage educational and scientific projects and programs that foster a
40 greater appreciation of the importance of shoreline management, water-oriented

1 activities, environmental conservation and local historic connections with the City of
2 Soap Lake's shoreline.

3 C. Policies:

- 4 1. Preserve scenic vistas, historic, cultural and archaeological sites.
- 5 2. Identify, protect, preserve, and restore important archeological, historical, and
6 cultural sites located in shorelands.
- 7 3. Prior to demolition, moving, or alteration to any designated historic, cultural,
8 and archaeological landmark, ensure that due consideration is given to
9 preservation or, at a minimum, documentation of its cultural or archaeological
10 value.
- 11 4. Public recreation facilities should incorporate public education regarding
12 shoreline ecological functions and processes, the role of human actions on the
13 environment and the importance of public involvement in shorelines
14 management.

15 **Flood Hazard Management Element**

16 A. Goal A: Protect lake water mineral content and associated hydrologic conditions
17 along with public safety within Soap Lake's floodways and floodplains and protect
18 natural systems by preserving the flood storage function of floodplains, recognizing
19 lake elevation controlled by US Bureau of Reclamation.

20 B. Policies:

- 21 1. Manage development proposed within floodplains and floodways consistent
22 with the Shoreline Management Act, the Federal Emergency Management
23 Agency (FEMA) standards, the Critical Areas Regulations for frequently
24 flooded areas contained within this SMP, and US Bureau of Reclamation lake
25 level elevation management.
- 26 2. Control stormwater runoff in a manner consistent with low impact
27 development practices which utilize natural detention, retention and recharge
28 techniques to the maximum extent possible.
- 29 3. Prohibit any development within the floodplain which would individually or
30 cumulatively cause any increase in the base flood elevation, or contribute to
31 change in US Bureau of Reclamation operations, where additional lake
32 pumping is required to maintain the base lake elevation.

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

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

36 B. Policies:

- 37 1. Shoreline uses should be located and designed to respect private property
38 rights, maintain privacy of private property, be compatible with the shoreline
39 environment, protect ecological functions and processes, and protect aesthetic
40 values of the shoreline.

June 2013

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2. Public access to shoreline such as trail, bikeways or roads should consider privacy of private property owners when locating them near private properties.

SECTION II: Shoreline Regulations – SLMC Chapter 14.08

Article I. Authority and Purpose

14.08.010 Authority

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

14.08.020 Applicability

- A. This Program shall apply to all of the shorelands and waters within the City of Soap Lake as described in the City’s SMP Section I, Profile of the Shoreline Jurisdiction within the City of Soap Lake.
- B. All proposed uses, activities, or development occurring within shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58 RCW, the SMA, and this SMP whether or not a permit or other form of authorization is required, except when specifically exempted by statute. See the City’s SMP Section I for the shoreline jurisdiction description and SLMC Section 14.08.960 for the definition of uses, activities, and development.
- C. The SMP applies to shoreline jurisdiction within the City limits.
- D. Pursuant to WAC 173-27-060, federal agency activities may be required by other federal laws to meet the permitting requirements of chapter 90.58 RCW. This Program shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership.
- E. As recognized by RCW 90.58.350, the provisions of this SMP shall not affect treaty rights of Indian Nations or tribes.
- F. Maps indicating the extent of shoreline jurisdiction and shoreline designations are guidance only. They are to be used in conjunction with best available science, field investigations and on-site surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.

14.08.030 Purpose

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

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

12 **14.08.040 Relationship to Other Codes, Ordinances and Plans**

- 13 A. All applicable federal, state, and local laws shall apply to properties in the shoreline
- 14 jurisdiction. Where this Program makes reference to any RCW, WAC, or other state
- 15 or federal law or regulation the most recent amendment or current edition shall apply.
- 16 B. In the event provisions of this SMP conflict with provisions of federal, state or city
- 17 regulations, the provision that is most protective of shoreline resources shall prevail.
- 18 It is understood that the provisions of this chapter may not allow development to
- 19 occur at what otherwise might be the property's full zoning potential.
- 20 C. The policies in the SMP, contained in the Shoreline Master Program Elements, state
- 21 the underlying objectives the regulations are intended to accomplish. The policies
- 22 guide the interpretation and enforcement of the SMP regulations contained in this
- 23 Chapter, SLMC 14.08. The policies are not regulations in themselves and, therefore,
- 24 do not impose requirements beyond those set forth in the regulations.
- 25 D. This Shoreline Master Program contains critical area regulations in Article V of this
- 26 Chapter. Critical area regulations are applicable only in shoreline jurisdiction. They
- 27 provide a level of protection to critical areas and assure no net loss of shoreline
- 28 ecological functions necessary to sustain shoreline natural resources. (RCW
- 29 36.70A.480).
- 30 E. 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 **14.08.050 Liberal Construction**

- 35 A. 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 **14.08.060 Severability**

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

4 **14.08.070 Effective Date**

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

8

9 **Article II. Environment Designations**

10 **14.08.100 Environment Designations**

11 A. 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 City
15 of Soap Lake's shoreline into four shoreline environment designations consistent with
16 the purpose and designation criteria as follows:

- 17 1. Aquatic
- 18 2. Urban Conservancy
- 19 3. Recreation
- 20 4. Public Recreation Conservancy
- 21 5. Shoreline Residential
- 22 6. Shoreline Residential – Low Intensity

23 B. Official Shoreline Maps

24 1. Shoreline Area Designations are delineated on a map, hereby incorporated as
25 a part of this Program (SLMC 14.08.970) that shall be known as the Official
26 Shoreline Map. The purpose of the Official Shoreline Map is to identify
27 Shoreline Area Designations. Maps indicating the extent of shoreline
28 jurisdiction and shoreline designations are guidance only. They are to be used
29 in conjunction with best available science, field investigations and on-site
30 surveys to accurately establish the location and extent of shoreline jurisdiction
31 when a project is proposed.

32 C. Unmapped or Undesignated Shorelines

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

36 D. Interpretation of Environment Designation Boundaries

37 1. Whenever existing physical features are inconsistent with boundaries on the
38 Official Shoreline Map, the Shoreline Administrator shall interpret the

1 boundaries. Appeals of such interpretations may be filed pursuant to Section
2 14.08.910, Appeals.

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

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

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

7 **14.08.110 Aquatic**

8 A. Purpose

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

12 B. Designation Criteria

13 1. An Aquatic shoreline designation is assigned to lands and waters waterward
14 of the ordinary high-water mark.

15 C. Management Policies

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

18 a. New over-water structures should be allowed only for water-dependent
19 uses, public access, recreation, or ecological restoration.

20 b. Shoreline uses and modifications should be designed and managed to
21 prevent degradation of water quality and natural hydrographic
22 conditions.

23 c. In-water uses should be allowed where impacts can be mitigated to
24 ensure no net loss of shoreline ecological functions. Permitted in-water
25 uses must be managed to avoid impacts to shoreline ecological
26 functions. Unavoidable impacts must be minimized and mitigated.

27 d. On navigable waters or their beds, all uses and developments should
28 be located and designed to:

29 i. minimize interference with surface navigation

30 ii. consider impacts to public views

31 iii. allow for the safe, unobstructed passage of wildlife,
32 particularly species dependent on migration

33 e. Multiple or shared use of over-water and water access facilities should
34 be encouraged to reduce the impacts of shoreline development and
35 increase effective use of water resources.

36 f. Structures and activities permitted should be related in size, form,
37 design, and intensity of use to those permitted in the immediately
38 adjacent upland area. The size of new over-water structures should be

- 1 limited to the minimum necessary to support the structure's intended
- 2 use.
- 3 g. Natural light should be allowed to penetrate to the extent necessary to
- 4 discourage salmonid predation and to support nearshore habitat unless
- 5 other illumination is required by state or federal agencies.
- 6 h. Aquaculture practices should be encouraged in those waters and beds
- 7 most suitable for such use. Aquaculture should be discouraged where
- 8 it would adversely affect the strength or viability of native stocks or
- 9 unreasonably interfere with navigation.
- 10 i. Shoreline uses, development, activities, and modifications in the
- 11 Aquatic shoreline designation requiring use of adjacent landside
- 12 property should be in a shoreline designation that allows that use,
- 13 development, activity or modification.

14 **14.08.120 Urban Conservancy (on unimproved C1 zones)**

15 A. Purpose

- 16 1. The purpose of the "urban conservancy" environment is to protect and restore
- 17 ecological functions of open space, fully or partially unimproved areas, flood
- 18 plain and other sensitive lands where they exist in urban and developed
- 19 settings, while allowing a variety of compatible uses.

20 B. Designation Criteria

- 21 1. The following criteria are used to consider an Urban Conservancy shoreline
- 22 designation:
 - 23 a. The shoreline is located within the urban growth area boundary or
 - 24 within an unimproved area within the City limits;
 - 25 b. The shoreline has moderate to high ecological function with moderate
 - 26 to high opportunity for preservation and low to moderate opportunity
 - 27 for restoration or low to moderate ecological function with moderate to
 - 28 high opportunity for restoration;
 - 29 c. The shoreline has potential for public, water-oriented recreation where
 - 30 ecological functions can be maintained or restored; or
 - 31 d. The shoreline has high scientific or educational value or unique
 - 32 historic or cultural resources value.

33 C. Management Policies

- 34 1. In addition to the other applicable policies and regulations of this Program the
- 35 following management policies shall apply:
 - 36 a. Allowed uses should be those that preserve the natural character of the
 - 37 area and/or promote preservation and restoration within critical areas
 - 38 and public open spaces either directly or over the long term.

- 1 uses. Non-water-oriented uses should not be allowed except as part of
2 mixed use developments with a recreation focus.
- 3 b. Policies and regulations shall assure no net loss of shoreline ecological
4 functions as a result of new development. Consistent with the City's
5 restoration plan, new development shall include restoration of
6 shoreline functions as part of project proposals.
- 7 c. Where feasible, visual and physical public access should be required
8 and/or enhanced as provided for in SLMC 14.08.260, Public Access.
9 Recreational objectives should be enhanced by combining physical
10 and visual public access opportunities with other recreational
11 opportunities where feasible.
- 12 d. Water-oriented commercial uses should be allowed.
- 13 e. Aesthetic objectives should be implemented by means such as sign
14 control regulations, appropriate development siting, screening and
15 architectural standards, and maintenance of natural vegetative buffers.

16 **14.08.140 Public Recreation Conservancy**

17 A. Purpose

- 18 1. The purpose of the “Public Recreation Conservancy” shoreline designation is
19 to provide continued and enhanced recreational opportunities while protecting
20 shoreline ecological functions, conserve existing natural resources and
21 valuable historic and cultural areas in order to provide for sustained resource
22 use.

23 B. Designation Criteria

- 24 1. The following criteria are used to consider a Public Recreation Conservancy
25 shoreline designation:
- 26 a. The shoreline is publically owned and includes facilities and
27 infrastructure that provide both aquatic habitat and water supply
28 benefits;
- 29 b. The shoreline has low to high ecological function with moderate to
30 high opportunity for preservation and low to moderate opportunity for
31 restoration;
- 32 c. The shoreline is not highly developed and most development is
33 recreation-related;
- 34 d. The shoreline is planned for or has an existing recreation use;
- 35 e. The shoreline has existing or moderate to high potential for public,
36 water-oriented recreation where ecological functions can be
37 maintained or restored; or
- 38 f. The shoreline has high scientific or educational value or unique
39 historic or cultural resources value.

40 C. Management Policies

- 1 1. In addition to the other applicable policies and regulations of this Program the
2 following management policies shall apply:
 - 3 a. Uses in the Public Recreation Conservancy – shoreline designation
4 should be limited to uses that sustain the shoreline area's physical and
5 biological resources and do not substantially degrade shoreline
6 ecological functions or the rural or natural character of the shoreline
7 area.
 - 8 b. Recreation development shall ensure no net loss of shoreline
9 ecological functions and preserve the existing character of the
10 shoreline consistent with the purpose of this designation.
 - 11 c. Encourage regulations that provide adequate setbacks from the
12 shoreline, promote native vegetation conservation and invasive species
13 control/removal and replacement with native species, reduce the need
14 for shoreline stabilization and maintain or improve water quality to
15 ensure no net loss of shoreline ecological functions.
 - 16 d. Water-dependent and water-enjoyment recreation facilities that do not
17 deplete the resource over time are preferred uses, provided significant
18 adverse impacts to the shoreline are avoided and unavoidable impacts
19 are minimized and mitigated.
 - 20 e. Developments and uses that would substantially degrade or
21 permanently deplete the biological resources of the area should not be
22 allowed.
 - 23 f. New shoreline stabilization, vegetation removal, and other shoreline
24 modifications should be designed and managed consistent with these
25 guidelines to ensure that the natural shoreline functions are protected.
26 Such shoreline modification should not be inconsistent with planning
27 provisions for restoration of shoreline ecological functions.

28 **14.08.150 Shoreline Residential**

29 A. Purpose

- 30 1. The purpose of the “Shoreline Residential” designation is to accommodate
31 primarily residential development and appurtenant structures, but to also allow
32 other types of development that are consistent with this chapter. An additional
33 purpose is to provide appropriate public access and recreational uses.

34 B. Designation Criteria.

- 35 1. Assign a "Shoreline Residential” environment designation to shoreline areas
36 that are:
- 37 2. The shoreline has low to moderate ecological function with low to moderate
38 opportunity for restoration
- 39 3. The shoreline contains mostly residential development at urban densities and
40 does not contain resource industries (agriculture, forestry, mining)

- 1 4. The shoreline is planned or platted for residential uses in the comprehensive
- 2 plan; or
- 3 5. The shoreline has low to moderate potential for low-impact, passive or active
- 4 water-oriented recreation where ecological functions can be restored.

5 C. Management Policies.

- 6 1. In addition to the other applicable policies and regulations of this Program the
- 7 following management policies shall apply:
 - 8 a. Encourage regulations that ensure no net loss of shoreline ecological
 - 9 functions as a result of new development such as limiting lot coverage,
 - 10 providing adequate setbacks from the shoreline, promoting vegetation
 - 11 conservation, reducing the need for shoreline stabilization and
 - 12 maintaining or improving water quality to ensure no net loss of
 - 13 ecological functions.
 - 14 b. The scale and density of new uses and development should be
 - 15 compatible with sustaining shoreline ecological functions and
 - 16 processes, and the existing residential character of the area.
 - 17 c. Public access and joint (rather than individual) use of recreational
 - 18 facilities should be promoted.
 - 19 d. Access, utilities, and public services to serve proposed development
 - 20 within shorelines should be constructed outside shorelines to the extent
 - 21 feasible, and be the minimum necessary to adequately serve existing
 - 22 needs and planned future development.
 - 23 e. Public or private outdoor recreation facilities should be provided with
 - 24 proposals for subdivision development and encouraged with all
 - 25 shoreline development if compatible with the character of the area.
 - 26 Priority should be given first to water-dependent and then to water-
 - 27 enjoyment recreation facilities.
 - 28 f. Commercial development should be limited to water-oriented uses.
 - 29 Nonwater-oriented commercial uses should only be allowed as part of
 - 30 mixed-used developments.

31 **14.08.160 Shoreline Residential – Low Intensity**

32 A. Purpose

- 33 1. The purpose of the “Shoreline Residential – Low Intensity” designation is to
- 34 accommodate residential development while protecting and, where
- 35 appropriate, enhancing ecological functions. An additional purpose is to
- 36 provide appropriate public access and recreational uses.

37 B. Designation Criteria

- 38 1. Assign a "Shoreline Residential – Low Intensity” environment designation to
- 39 shoreline areas where:

- 1 a. The shoreline has moderate to high ecological function with low to
- 2 moderate opportunity for restoration, and provides opportunity for
- 3 development that is compatible with ecological protection/restoration.
- 4 b. The shoreline is planned or platted for residential uses in the
- 5 comprehensive plan; or
- 6 c. The shoreline may support public passive or active water-oriented
- 7 recreation with opportunity for ecological functions restoration.

8 C. Management Policies

- 9 1. In addition to the other applicable policies and regulations of this Program the
- 10 following management policies shall apply:
 - 11 a. Encourage regulations that ensure no net loss of shoreline ecological
 - 12 functions as a result of new development such as limiting lot coverage,
 - 13 providing adequate setbacks from the shoreline, promoting vegetation
 - 14 conservation, reducing the need for shoreline stabilization and
 - 15 maintaining or improving water quality to ensure no net loss of
 - 16 ecological functions.
 - 17 b. The scale and density of new uses and development should be
 - 18 compatible with sustaining shoreline ecological functions and
 - 19 processes, and the existing residential and ecological character of the
 - 20 area.
 - 21 c. Developments and uses that would substantially degrade or
 - 22 permanently deplete the biological resources of the area should not be
 - 23 allowed.
 - 24 d. Enhancement/restoration of shoreline ecological functions should be
 - 25 encouraged.
 - 26 e. Public access and joint (rather than individual) use of recreational
 - 27 facilities should be promoted.
 - 28 f. Access, utilities, and public services to serve proposed development
 - 29 within shorelines should be constructed outside shorelines to the extent
 - 30 feasible, and be the minimum necessary to adequately serve existing
 - 31 needs and planned future development.
 - 32 g. Public or private outdoor recreation facilities should be provided with
 - 33 proposals for subdivision development and encouraged with all
 - 34 shoreline development if compatible with the character of the area.
 - 35 Priority should be given first to water-dependent and then to water-
 - 36 enjoyment recreation facilities.

37

Article III. General Regulations

14.08.200 Shoreline Use and Modification

- A. Table 14.08.200 (I) indicates which shoreline activities, uses, developments and modifications may be allowed or are prohibited in shoreline jurisdiction within each shoreline environment designation. Activities, uses, developments, and modifications are classified as follows:
 - 1. “Permitted Uses” require a Shoreline Substantial Development Permit or a Shoreline Exemption.
 - 2. “Conditional Uses” require a Shoreline Conditional Use Permit per SLMC 14.08.850.
 - 3. “Prohibited” activities, uses, developments, and modifications are not allowed and cannot be permitted through a Variance or Shoreline Conditional Use Permit.
 - 4. General Regulations, per Article III of this Chapter, and Shoreline Modifications and Uses Regulations, per Article IV of this Chapter, shall be considered for additional limitations.
- B. Accessory uses shall be subject to the same shoreline permitting process as their primary use.
- C. Where there is a conflict between the chart and the written provisions in this SMP, the written provisions shall control.
- D. Authorized uses and modifications shall be allowed only in shoreline jurisdiction where the underlying zoning allows for it and are subject to the policies and regulations of this SMP.
- E. A use is considered unclassified when it is not listed in Table 14.08.200 (I), Shoreline Use and Modification Matrix or in Shoreline Modifications and Uses Regulations, Per Article IV of this Chapter. Any proposed unclassified use may be authorized as a conditional use provided that the applicant can demonstrate consistency with the requirements of this Master Program and the requirements for conditional uses.
- F. If any part of a proposed activity, use, modification or development is not eligible for exemption per Section 14.08.870, Exemptions from Shoreline Substantial Development Permits), then a Shoreline Substantial Development Permit or Shoreline Conditional Use Permit shall be required for the entire proposed development project.
- G. When a specific use or modification extends into the Aquatic environment and an abutting upland environment without clear separation (e.g., shoreline stabilization), the most restrictive permit process shall apply to that use or modification.
- H. Shoreline and critical areas buffers found in Article V of this Chapter apply to all uses and modifications unless stated otherwise in the regulations.
- I. Shoreline use and modification matrix:

Table 14.08.200 (I). Shoreline Use and Modification Matrix

Abbreviations A = Allowed use with Substantial Development Permit; C = Conditional Use Permit; X= Prohibited; N/A = Not Applicable;						
Use/ Modification	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Boating Facilities						
Boat launch (motorized boats)	A	X	A	A	C	C
Boat launch (non-motorized boat - canoe / kayak)	A	A	A	A	A	A
Commercial Development						
Water dependent	A	C	A	A	A	X
Water-related, Water-enjoyment	X	X	A	C	X	X
Non-water-oriented	X	X	C ¹	X	X	X
Docks, Piers, Mooring Facilities	A	C	A	A	A	C
Dredging Activities						
Dredging	X	N/A	N/A	N/A	N/A	N/A
Dredge Material Disposal	X	X	X	X	X	X
Dredging & Disposal as part of Ecological Restoration/ Enhancement	A	A	A	A	A	A
Fill and Excavation						
Waterward of OHWM	C	N/A	N/A	N/A	N/A	N/A
Other upland fill and excavation	N/A	A	A	A	A	A
In-water Modifications						
Groins and Weirs	C	C	C	C	C	C
Mining	X	X	X	X	X	X
Recreational Development						
Water-dependent	A	A	A	A	A	A
Water-related/enjoyment (trails, accessory buildings)	C	A	A	A	A	A
Non-water-oriented	X	C	C	C	C	C
Residential Development	X	X	X	X	A	A
Shoreline Habitat and Natural Systems Enhancement Projects	A	A	A	A	A	A
Shoreline Stabilization						
New						
Hard	C	C	C	C	C	C
Soft	A	A	A	A	A	A
Replacement: hard replaced with hard	C	C	C	C	C	C
Replacement: hard replaced with soft	A	A	A	A	A	A
Transportation						
Highways, Arterials, Railroads (parallel to OHWM)	C	A	A	A	A	A
Secondary/Public Access Roads (parallel to OHWM)	X	A	A	A	A	A
Roads perpendicular to the OHWM	X	A	A	A	A	A
Bridges (perpendicular to shoreline)	C	C	A	C	C	C

Abbreviations A = Allowed use with Substantial Development Permit; C = Conditional Use Permit; X= Prohibited; N/A = Not Applicable;						
Use/ Modification	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Existing bridges, trails, roads, and parking facilities: improvement or expansion	A	A	A	A	A	A
New Parking, Accessory ²	Permitted under the primary use permit process					
New Parking, Primary	X	X	X	X	X	X
Utility						
Above and under-ground Utilities (parallel or cross shoreline)	C	A	A	A	A	A

¹ Allowed as part of mixed use development

² Not allowed within 50 ft of edge of riparian vegetation corridor

14.08.210 Development Standards

- A. To preserve the existing and planned character of the shoreline consistent with the purposes of the shoreline environment designations, development standards are provided in Table 14.08.210 (A). These standards apply to all use and modification unless indicated otherwise. In addition, shoreline developments shall comply with all other dimensional requirements of the City of Soap Lake Municipal Code.

Table 14.08.210 (A). Development Standards

	Aquatic	Urban Conservancy	Recreation	Public Recreation Conservancy	Shoreline Residential	Shoreline Residential - Low Intensity
Building Height: maximum in feet (according to 14.08.210(C))	15	35				
Impervious Surface Cover (in feet)	NA	15	50	25	30	25
Riparian Buffer Width (in feet)	NA	75	50	75	50	75
Trail Width (in feet)	NA	10				

- B. When a development or use is proposed that does not comply with the dimensional performance standards of this SMP not otherwise allowed by administrative reduction or administrative modification, such development or use can only be authorized by approval of a Shoreline Variance.

- 1 C. No permit shall be issued for any new or expanded building or structure of more than
2 35 feet above average grade level on shorelines of the state that will obstruct the view
3 of a substantial number of residences on areas adjoining such shorelines, except
4 where the SMP does not prohibit the same and then only when overriding
5 considerations of the public interest will be served.

6 **14.08.220 Archaeological and Historic Resources**

- 7 A. In all developments, whenever an archaeological area or historic site is discovered by
8 a development in the shoreline area, the developer shall immediately stop the work
9 and notify the City of Soap Lake, and the Department of Archaeology and Historic
10 Preservation and affected Indian tribes.

- 11 B. Upon receipt of application for a shoreline permit or request for a statement of
12 exemption for development on properties within 500 feet of a site known to contain
13 an historic, cultural or archaeological resource, or upon findings as described in
14 Section 14.08.220 (A) above, the City shall require a cultural resource site
15 assessment; provided that, the provisions of this section may be waived if the
16 Shoreline Administrator determines that the proposed development activities do not
17 include any ground disturbing activities and will not impact a known historic, cultural
18 or archaeological site. The site assessment shall be conducted by a professional
19 archaeologist or historic preservation professional, as applicable, to determine the
20 presence of significant historic or archaeological resources. The fee for the services of
21 the professional archaeologist or historic preservation professional shall be paid by
22 the landowner or responsible party. The applicant shall submit a minimum of five (5)
23 copies of the site assessment to the Shoreline Administrator for distribution to the
24 applicable parties for review.

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

33 **14.08.230 Environmental Protection**

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

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

- 40 1. Avoiding the adverse impact altogether by not taking a certain action or parts
41 of an action;

- 1 2. Minimizing adverse impacts by limiting the degree or magnitude of the action
2 and its implementation by using appropriate technology or by taking
3 affirmative steps to avoid or reduce impacts;
- 4 3. Rectifying the adverse impact by repairing, rehabilitating, or restoring the
5 affected environment to the conditions existing at the time of the initiation of
6 the project;
- 7 4. Reducing or eliminating the adverse impact over time by preservation and
8 maintenance operations;
- 9 5. Compensating for the adverse impact by replacing, enhancing, or providing
10 substitute resources or environments; and
- 11 6. Monitoring the adverse impact and the compensation projects and taking
12 appropriate corrective measures.
- 13 C. Projects that cause significant adverse environmental impacts, as defined in WAC
14 197-11-794 and the Definitions Section of this SMP, are not allowed unless mitigated
15 according to B, above, to avoid reduction or damage to ecosystem-wide processes and
16 ecological functions. As part of this analysis, the applicant shall evaluate whether the
17 project may adversely affect existing hydrologic connections between streams and
18 wetlands, and either modify the project or mitigate any impacts as needed.
- 19 D. The City shall require mitigation measures and/or permit conditions based on the
20 provisions of this SMP, in order to mitigate adverse impacts. In order to determine
21 acceptable mitigation or permit conditions, the Shoreline Administrator may require
22 the applicant to provide the necessary environmental information and analysis,
23 including a description of existing conditions/ecological functions and anticipated
24 shoreline impacts, along with a mitigation plan outlining how proposed mitigation
25 measures would result in no net loss of shoreline ecological functions.
- 26 E. When compensatory measures are appropriate pursuant to the mitigation priority
27 sequence above, preferential consideration shall be given to measures that replace the
28 adversely impacted functions directly and in the immediate vicinity of the adverse
29 impact. However, alternative compensatory mitigation may be authorized within the
30 affected drainage area or watershed that addresses limiting factors or identified
31 critical needs for shoreline resource conservation based on watershed or
32 comprehensive resource management plans, including the Shoreline Restoration Plan,
33 applicable to the area of adverse impact may be authorized. Authorization of
34 compensatory mitigation measures may require appropriate safeguards, terms or
35 conditions as necessary to ensure no net loss of ecological functions.
- 36 F. In addition to any requirements for specific critical areas found in Critical Areas
37 section, below, mitigation plans for any adverse impacts on ecological functions
38 resulting from use, activity or development in shoreline jurisdiction, both inside and
39 outside of critical areas, shall address the following:
 - 40 1. Inventory existing shoreline environment including the physical, chemical and
41 biological elements and provide an assessment of their condition;

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

21 **14.08.240 Shoreline Vegetation Conservation**

- 22 A. Vegetation conservation standards shall not apply retroactively to existing uses and
23 developments. Vegetation associated with existing structures, uses and developments
24 may be maintained within shoreline jurisdiction as stipulated in the approval
25 documents for the development.
- 26 B. Regulations specifying establishment and management of shoreline buffers are
27 located in Article V. Critical Areas. Vegetation within shoreline buffers, and
28 wetlands and wetland buffers shall be managed consistent with Article V. Critical
29 Areas.
- 30 C. Vegetation outside of riparian buffers, and wetlands and wetland buffers and within
31 shoreline jurisdiction shall be managed according to Section 14.08.230,
32 Environmental Protection, and any other regulations specific to vegetation
33 management contained in other chapters of this SMP.
- 34 D. Vegetation clearing outside of riparian and wetlands and associated buffers shall be
35 limited to the minimum necessary to accommodate approved shoreline development
36 that is consistent with all other provisions of this SMP. Mitigation sequencing shall be
37 applied so that the design and location of the structure or development minimizes
38 native vegetation removal. Development or uses that require vegetation clearing shall
39 be designed to avoid the removal of native and non-native vegetation, except as part
40 of an effort to remove invasive, non-native vegetation species and replace these with
41 native species. Selective pruning of trees for safety and view protection is allowed.

1 **14.08.250 Water Quality, Stormwater, and Nonpoint Pollution**

- 2 A. The location, design, construction, and management of all shoreline uses and
3 activities shall protect the quality and quantity of surface and groundwater adjacent to
4 the site.
- 5 B. All shoreline development shall comply with the applicable requirements of the latest
6 version of the Washington State Department of Ecology's (Ecology) Stormwater
7 Management Manual for Eastern Washington.
- 8 C. Best management practices (BMPs) for control of erosion and sedimentation shall be
9 implemented for all shoreline development.
- 10 D. Potentially harmful materials, including but not limited to oil, chemicals, tires, or
11 hazardous materials, shall not be allowed to enter any body of water or wetland, or to
12 be discharged onto the land. Potentially harmful materials shall be maintained in safe
13 and leak-proof containers.
- 14 E. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-
15 five (25) feet of a water body, except by a qualified professional in accordance with
16 state and federal laws.
- 17 F. All shoreline development, both during and after construction, shall avoid or
18 minimize significant adverse ecological impacts, including any increase in surface
19 runoff, through control, treatment, and release of surface water runoff so that water
20 quality and quantity are not adversely affected. Control measures include, but are not
21 limited to, low impact development techniques, levees, catch basins or settling ponds,
22 oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
- 23 G. New development shall provide stormwater management facilities designed,
24 constructed, and maintained in accordance with the latest version of the Washington
25 State Department of Ecology's (Ecology) Stormwater Management Manual for
26 Eastern Washington, including the use of BMPs. Additionally, new development
27 shall implement low impact development techniques where feasible and necessary to
28 fully implement the core elements of the Surface Water Design Manual.
- 29 H. BMPs for control of erosion and sedimentation shall be implemented for all
30 development in shoreline jurisdiction through a City-approved temporary erosion and
31 sediment control (TESC) plan, in accordance with the latest version of the Ecology's
32 Stormwater Management Manual for Eastern Washington, as adopted by the City.
- 33 I. For development activities with the potential for adverse impacts on water quality or
34 quantity in a fish and wildlife habitat conservation area, a critical area report as
35 prescribed in Article V, Critical Areas, shall be prepared. Such reports should discuss
36 the project's potential to exacerbate water quality parameters which are impaired and
37 for which Total Maximum Daily Loads (TMDLs) for that pollutant have been
38 established, and prescribe any necessary mitigation and monitoring.
- 39 J. All materials that may come in contact with water shall be constructed of materials,
40 such as untreated wood, concrete, approved plastic composites or steel, that will not
41 adversely affect water quality or aquatic plants or animals. Materials used for decking
42 or other structural components shall be approved by applicable state agencies for

1 contact with water to avoid discharge of pollutants from wave splash, rain, or runoff.
2 Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is
3 prohibited in shoreline waterbodies.

4 **14.08.260 Public Access**

5 A. Applicants required to provide shoreline public access shall provide physical or visual
6 access, consistent with the City's and other agencies management plans when
7 applicable, unless specifically exempted in this section. Examples of physical and
8 visual access are listed below.

- 9 1. Visual Access. Visual public access may consist of view corridors,
10 viewpoints, or other means of visual approach to public waters.
- 11 2. Physical Access. Physical public access may consist of a dedication of land or
12 easement and a physical improvement in the form of a walkway, trail,
13 bikeway, park, view platform, or other area serving as a means of physical
14 approach to public waters.

15 B. Existing shoreline public accesses shall be maintained. Except as provided in SMP
16 Section 14.08.260 (C)below, shoreline substantial developments and shoreline
17 conditional uses shall provide for safe and convenient public access to and along the
18 shoreline where any of the following conditions are present:

- 19 1. New development is proposed by a public entity or on public lands;
- 20 2. The nature of the proposed use, activity, or development will likely result in
21 an increased demand for public access to the shoreline;
- 22 3. The proposed use, activity, or development is not a water-oriented or other
23 preferred shoreline use, activity or development under the Act, such as a non-
24 water-oriented commercial or recreational use;
- 25 4. The proposed use, activity, or development may block or discourage the use
26 of customary and established public access paths, walkways, trails, or
27 corridors; or
- 28 5. The proposed use, activity, or development will interfere with the public use,
29 activity and enjoyment of shoreline areas or waterbodies subject to the public
30 trust doctrine.
- 31 6. The proposed activity is a publicly financed shoreline erosion control measure
32 (when feasible).

33 C. New public access shall not be required where one or more of the following
34 conditions apply, provided such exceptions shall not be used to prevent implementing
35 the access and trail provisions mentioned in the City's and other agencies
36 management plans. In determining the infeasibility, undesirability, or incompatibility
37 of public access in a given situation, the City shall consider alternative methods of
38 providing public access, such as offsite improvements, viewing platforms, separation
39 of uses through site planning and design, and restricting hours of public access:

- 40 1. Proposed use, activity, or development only involves the construction of four
41 or fewer single-family or multifamily dwellings

- 1 2. The nature of the proposed use, activity, or development or the characteristics
2 of the site make public access requirements inappropriate due to health,
3 safety, or environmental hazards; the proponent shall carry the burden of
4 demonstrating by substantial evidence the existence of unavoidable or
5 unmitigable threats or hazards to public health, safety, or the environment that
6 would be created or exacerbated by public access upon the site;
- 7 3. An existing, new or expanded road or utility crossing through shoreline
8 jurisdiction shall not create the need for public access if the development
9 being accessed or served by the road or utility is located outside of shoreline
10 jurisdiction.
- 11 4. The proposed use, activity, or development has security requirements that are
12 not feasible to address through the application of alternative design features
13 for public access such as offsite improvements, viewing platforms, and
14 separation of uses through site planning and design;
- 15 5. The economic cost of providing for public access upon the site is
16 unreasonably disproportionate to the total long-term economic value of the
17 proposed use, activity, or development;
- 18 6. Safe and convenient public access already exists in the general vicinity of the
19 site, and/or the City and agencies' plans show adequate public access at the
20 property; or
- 21 7. Public access has reasonable potential to threaten or harm the natural
22 functions and native characteristics of the shoreline and/or is deemed
23 detrimental to threatened or endangered species under the Endangered Species
24 Act.
- 25 8. The site is within or part of an overall development, a binding site plan, or a
26 planned unit development which has previously provided public access
27 through other application processes
- 28 D. General Performance Standards
- 29 1. Uses, activities and developments shall not interfere with the regular and
30 established public use.
- 31 2. Shoreline substantial development or conditional uses shall minimize the
32 impact on views of shoreline waterbodies from public land or substantial
33 numbers of residences.
- 34 3. Proponents shall include within their shoreline applications an evaluation of a
35 proposed use, activity, or development's likely adverse impact on current
36 public access and future demands for access to the site. Such evaluation shall
37 consider potential alternatives and mitigation measures to further the policies
38 of this SMP and the provisions of this section.
- 39 4. Public access easements, trails, walkways, corridors, and other facilities may
40 encroach upon any buffers or setbacks required in Article V, Critical Areas, or
41 under other provisions of this SMP, provided that such encroachment does not

1 conflict with other policies and regulations of this SMP, and that no net loss of
2 ecological function can be achieved.

3 5. Public access facilities shall accommodate persons with disabilities unless
4 determined infeasible by the Shoreline Administrator.

5 E. Trails

6 1. Existing trails shall be maintained and enhanced.

7 2. Where public access is to be provided by dedication of public access
8 easements along the OHWM, the minimum width of such easements shall be
9 10 feet.

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

18 G. Signage

19 1. Signage to be approved by the Shoreline Administrator shall be conspicuously
20 installed along public access easements, trails, walkways, corridors, and other
21 facilities to indicate the public's right of use and the hours of operation. The
22 proponent shall bear the responsibility for establishing and maintaining such
23 signs.

24 2. The Administrator may require the proponent to post signage restricting or
25 controlling the public's access to specific shoreline areas. The proponent shall
26 bear the responsibility for establishing and maintaining such signage.

27

28 **Article IV. Shoreline Modifications and Uses Regulations**

29 **14.08.300 Boating Facilities**

30 A. General Requirements.

31 1. All boating uses, development, and facilities shall protect the rights of
32 navigation.

33 2. Boating and moorage facilities shall be sited and designed to ensure no net
34 loss of shoreline ecological functions, and shall meet federal, state and local
35 requirements, as applicable.

36 3. Boating and moorage facilities shall locate on stable shorelines in areas
37 where:

38 a. Water depths are adequate to minimize spoil disposal, filling, beach
39 enhancement, and other channel maintenance activities; and

1 functions, aquatic and riparian habitats, water quality, navigation and
2 neighboring uses.

3 4. Boat launch facilities shall be designed and constructed using
4 methods/technology that have been recognized and approved by state and
5 federal resource agencies as the best currently available.

6 **14.08.310 Commercial Development**

7 A. Water-dependent commercial development shall be given priority over non-water-
8 dependent commercial uses within shoreline environments. Secondly, water-
9 related and water-oriented uses shall be given priority over non-water-oriented
10 commercial uses.

11 B. Non-water-oriented commercial uses shall be allowed if they can demonstrate at least
12 one or more of the following:

- 13 1. The commercial use is part of a mixed-use project that includes water-
14 dependent uses and provides a significant public benefit with respect to the
15 objectives of the Act.
- 16 2. Navigability is severely limited at the proposed site, including opportunities
17 for kayaking or other water-oriented uses.
- 18 3. The commercial use is physically separated from the shoreline by another
19 property, public right-of-way or levee.
- 20 4. The commercial use is farther upland than 200 feet from the OHWM;
21 therefore, a water-oriented use is not a viable option.

22 C. Non-water-oriented uses may be located with water-oriented commercial uses
23 provided:

- 24 1. The mixed-use project includes one or more water-dependent uses.
- 25 2. Water-dependent commercial uses as well as other water-oriented commercial
26 uses have preferential locations along the shoreline.
- 27 3. The underlying zoning district permits proposed uses together with
28 commercial uses.
- 29 4. Public access is provided and/or ecological restoration is provided as a public
30 benefit.

31 D. Review Criteria: The City shall utilize the following information in its review of all
32 commercial development applications:

- 33 1. Whether there is a water-oriented aspect of the proposed commercial use or
34 activity when it is located within 200 feet of the OHWM.
- 35 2. Whether the proposed commercial use is consistent with the Shoreline Use
36 and Modification Matrix of per Section 14.08.200 (I).
- 37 3. Whether the application has the ability to enhance compatibility with the
38 shoreline environment and adjacent uses.

- 1 4. Whether adequate provisions are made for public and private visual and
2 physical shoreline access.
- 3 5. Whether the application makes adequate provisions to prevent adverse
4 environmental impacts and provide for shoreline ecological or critical area
5 mitigation, where appropriate.
- 6 6. Commercial development shall be designed and maintained in a manner
7 compatible with the character and features of surrounding areas. The City may
8 prescribe and modify project dimensions, screening standards, setbacks, or
9 operation intensities to achieve this purpose.
- 10 7. Eating and drinking facilities and lodging facilities shall be oriented to
11 provide views to the waterfront when such view is available from the site.
- 12 8. Commercial uses shall provide for public access as a condition of approval,
13 unless such public access is demonstrated by the proponent to be infeasible or
14 inappropriate for the shoreline pursuant to Section 14.08.260, Public Access.
- 15 9. Commercial uses shall provide for suitable measures to rehabilitate and
16 enhance the shoreline ecology as a condition of approval.
- 17 10. Non-water-oriented commercial uses shall not be allowed over water in any
18 shoreline environment.
- 19 11. All commercial loading and service areas shall be located upland or away
20 from the shoreline. Provisions shall be made to screen such areas with walls,
21 fences and landscaping and to minimize aesthetic impacts.
- 22 12. Development shall be located, designed, and constructed in a manner that
23 assures no net loss of shoreline ecological functions and without significant
24 adverse impacts on other preferred land uses and public access features.

25 **14.08.320 Docks and Piers**

- 26 A. Location Standards: Docks, swim floats, buoys shall be located according to the
27 following criteria:
 - 28 1. Docks, swim floats, and buoys, shall be sited to avoid adversely impacting
29 shoreline ecological functions or processes and allowed only for water-
30 dependent uses or public access. (WAC 173-26-321(2)(d))
 - 31 2. Docks, swim floats, and buoys shall be spaced and oriented in a manner that
32 minimizes hazards and obstructions to public navigation rights and corollary
33 rights thereto such as, but not limited to, fishing, swimming and pleasure
34 boating.
 - 35 3. Covered docks or other covered structures are not permitted waterward of the
36 OHWM. (WAC 173-26-321(2)(b, d))
- 37 B. General Design Standards: Docks, swim floats, and buoys shall be designed
38 according to the following criteria:
 - 39 1. If moorage is to be provided or planned as part of a new residential
40 development of two or more waterfront dwelling units or lots or as part of a

1 subdivision or other divisions of land occurring after [the effective date of this
2 SMP] that results in less than five residential units, joint-use dock facilities
3 shall be required (Section 14.08.300, Boating Facilities), when feasible, rather
4 than allow individual docks for each residence. See SMP Section 14.08.300,
5 Boating Facilities, for regulations addressing community docks serving more
6 than four residential dwelling units. The following conditions apply:

7 a. New residential developments, including division of land, shall contain
8 a restriction on the face of the plat prohibiting individual docks and
9 identifying locations for joint-use or community dock facilities.
10 However, a single-use dock may be authorized if the applicant can
11 demonstrate that all other reasonable community or joint-use options
12 have been investigated and found infeasible.

13 b. A site for shared moorage at a joint-use dock should be owned in
14 undivided interest by property owners or managed by a homeowner's
15 association as a common easement within the residential development.

16 2. If moorage joint-use dock is provided, the applicant shall file at the time of
17 building permit submittal for the dock a legally enforceable joint use
18 agreement or other legal instrument that, at a minimum, addresses the
19 following:

20 a. Provisions for maintenance and operation;

21 b. Easements or tracts for joint-use access; and

22 c. Provisions for joint use for all benefiting parties.

23 3. All over- and in-water structures shall be constructed and maintained in a safe
24 and sound condition. Abandoned or unsafe structures or materials, including
25 treated wood, pilings, derelict structures, vessels, buoys, and equipment, shall
26 be repaired promptly by the owner or removed after obtaining any necessary
27 permits.

28 4. Lighting is discouraged unless required by a federal or state agency for
29 navigation or safety and security purposes. In instances where lighting is
30 required for these purposes, illumination levels shall be the minimum
31 necessary for safety. (WAC 173-26-231(2)(b, d))

32 5. Temporary moorages shall be allowed for vessels used in the construction of
33 shoreline facilities. The design and construction of temporary moorages shall
34 be such that upon termination of the project, the aquatic habitat in the affected
35 area can be returned to its original (pre-construction) condition within one
36 year at no cost to the environment or the public.

37 6. No skirting is allowed on any structure. (WAC 173-26-321(2)(b, d))

38 7. If a dock is provided with a safety railing, such railing shall meet International
39 Building Code requirements and shall be an open framework, following
40 appropriate safety standards, that does not unreasonably interfere with
41 shoreline views of adjoining properties.

- 1 8. Moorage facilities shall be marked with reflectors, or otherwise identified to
2 prevent unnecessarily hazardous conditions for water surface users during the
3 day or night. Exterior finish of all structures shall be generally non-reflective.
- 4 9. Private moorage for float planes may be permitted accessory to existing or
5 concurrently proposed moorage where construction and operation would not
6 adversely affect shoreline functions or processes, including wildlife use, or
7 interfere with navigation.
- 8 C. Dock Dimensional Standards:
 - 9 1. The following dimensional standards shall apply to all new docks serving four
10 or fewer residential dwellings. Deviations from the dimensional standards
11 must be approved through a Shoreline Variance.
 - 12 a. Width:
 - 13 i. Piers and floats shall not exceed 8 feet in width. Ramps shall
14 not exceed 4 feet in width.
 - 15 ii. Dock finger extensions shall not exceed 2 feet in width.
 - 16 b. Length:
 - 17 i. The length of the dock shall not exceed the length necessary in
18 order for the end of the dock to reach a minimum water depth
19 of 6 feet measured at ordinary high water.
 - 20 c. Area:
 - 21 i. The area of new docks shall be limited by the maximum width
22 and length allowed in a) and b) above. Only one float is
23 allowed per single-use dock. A maximum of two floats is
24 allowed for joint-use docks.
 - 25 ii. 320 square feet for single use docks, excluding the ramp and all
26 associated appurtenances.
 - 27 iii. 450 square feet for joint use docks, excluding the ramp and all
28 associated appurtenances.
 - 29 d. Height: The bottom of any piers or the landward edge of any ramp
30 must be at least 1 foot above the OHWM. The freeboard height on all
31 floats must be at least 10 inches.
 - 32 D. Dock Support Piles:
 - 33 1. Piling shall be structurally sound and cured prior to placement in the water.
 - 34 2. Pilings shall not be treated with pentachlorophenol, creosote, copper
35 naphthalene, chromate copper arsenate, or comparably toxic compounds.
 - 36 3. Pilings shall not extend beyond the end of the dock.
 - 37 4. Pilings shall not exceed 4 inches in diameter. If a piling is encased in a
38 sleeve, the piling plus sleeve diameter shall not exceed 5 inches. Piles up to 8
39 inches in diameter may be approved by the Shoreline Administrative Official

- 1 without a Shoreline Variance if the designing engineer documents need for
2 larger piles for safety or structural reasons.
- 3 5. Pilings or piling sleeves shall be white in color.
- 4 E. Decking Materials:
- 5 1. Use of materials specified for marine use is required.
- 6 2. Flotation materials shall be permanently encapsulated.
- 7 F. Replacement of Existing Docks¹: Proposals involving replacement of the entire
8 existing private dock or 75 percent or more of the dock support piles are considered a
9 new moorage facility and must meet the dimensional, materials and mitigation based
10 on mitigation sequencing in Section 14.08.230 (Environmental Protection) for new
11 private docks as described in Subsection 14.08.320 (B), except the Shoreline
12 Administrator may approve an alternative design if it meets all of the following
13 criteria:
- 14 1. As applicable, Federal agencies have already approved the proposal;
- 15 2. The total square footage of the replacement structure is no larger than the
16 existing dock;
- 17 3. The maximum width for the portion of the dock located within 30 feet of the
18 OHWM shall not be greater than the width allowed for new docks under
19 14.08.320 (C) above;
- 20 4. Replacement piles shall meet the spacing and material specifications under
21 14.08.320 (D) above; and
- 22 5. Decking and deck materials shall meet the specifications under 14.08.320 (E)
23 above.
- 24 G. Additions to Private Dock: Proposals involving the modification and/or enlargement
25 of existing private docks must comply with the following measures:
- 26 1. The applicant must demonstrate to the satisfaction of the responsible local
27 government that there is a need for the enlargement of an existing dock.
28 Proposals that demonstrate an enlargement is necessary due to safety concerns
29 or inadequate depth of water will be considered.
- 30 2. Enlarged portions of docks must comply with the dimensional, design,
31 materials and mitigation standards for new private docks as described in
32 Section 14.08.320. Dock additions that result in the completed structure
33 exceeding the area limits for reasons not specifically allowed above may only
34 be approved through a Shoreline Variance.
- 35 H. Repair of Existing Private Dock:

¹ Nonconforming private moorage facilities are governed by regulations found in Section 14.08.730, Nonconforming Structures.

- 1 1. Repair proposals which replace 75 percent or greater of the existing dock-
2 support piles are considered replacement docks and must comply with
3 requirements for Replacement Docks.
- 4 2. All proposed replacement piles shall be the minimum size allowed by site-
5 specific engineering or design considerations.
- 6 3. Pentachlorophenol, creosote, chromated copper arsenate or comparably toxic
7 compounds shall not be utilized to repair piles or as treatments for
8 replacement piles.
- 9 4. Repair proposals which replace 50 percent or more of the decking must use
10 grating as specified above.
- 11 5. Other repairs to existing legally established moorage facilities where the
12 nature of the repair is not described in the above subsections shall be
13 considered minor repairs and are permitted, consistent with all other
14 applicable codes and regulations. If the cumulative repair proposed over a
15 three-year period exceeds thresholds established for reconstructed or repaired
16 piers listed above in SMP Subsection (H), the current repair proposal shall be
17 reviewed under those replacement provisions.

18 **14.08.330 Dredging and Dredge Material Disposal**

- 19 A. Dredging.
- 20 1. Dredging and dredge disposal shall be prohibited.

21 **14.08.340 Fill and Excavation**

- 22 A. Fill waterward of the OHWM, except fill to support ecological restoration and
23 enhancement, requires a Conditional Use Permit and may be permitted only when:
- 24 1. In conjunction with water-dependent or public access uses allowed by this
25 SMP;
 - 26 2. In conjunction with a bridge or transportation facility of statewide significance
27 for which there is a demonstrated public need and where no feasible upland
28 sites, design solutions, or routes exist;
 - 29 3. In conjunction with implementation of an interagency environmental clean-up
30 plan to clean up and dispose of contaminated sediments;
 - 31 4. Disposal of dredged material considered suitable under, and conducted in
32 accordance with, the Dredged Material Management Program of the
33 Washington Department of Natural Resources; or
 - 34 5. In conjunction with any other environmental restoration or enhancement
35 project.
 - 36 6. Necessary to construct an approved in-water structure as provided in Section
37 14.08.350 (Groins and Weirs)
- 38 B. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in
39 reference to fills. Fills for approved road development in wetlands shall be permitted
40 only if pile or pier supports are proven not feasible.

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

17 **14.08.350 Groins and Weirs**

- 18 A. Breakwaters shall be prohibited.
- 19 B. New, expanded or replacement groins and weirs shall only be permitted if the
20 applicant demonstrates that the proposed groin or weir will not result in a net loss of
21 shoreline ecological functions, and the structure is necessary for water-dependent
22 uses, public access, shoreline stabilization, or other specific public purposes.
- 23 C. Groins and weirs shall require a Conditional Use Permit, except when such structures
24 are installed to protect or restore ecological functions, such as installation of groins
25 that may eliminate or minimize the need for hard shoreline stabilization.
- 26 D. Groins and weirs shall be located, designed, constructed and operated consistent with
27 mitigation sequencing principles, including avoiding critical areas, as provided in
28 Sections 14.08.230 and Article V of this Chapter..

29 **14.08.360 Mining**

- 30 A. Mining shall be prohibited.

31 **14.08.370 Recreational Development**

- 32 A. General Preferences
 - 33 1. Recreational uses and facilities shall include features that relate to access,
34 enjoyment, and use of the City of Soap Lake's shorelines.
 - 35 2. Both passive and active shoreline recreation uses are allowed consistent with
36 the City's Comprehensive Plan.
 - 37 3. Water-oriented recreational uses and activities are preferred in shoreline
38 jurisdiction. Water-dependent recreational uses shall be preferred as a first

1 priority and water-related and water-enjoyment recreational uses as a second
2 priority.

3 4. Existing passive recreational opportunities, including nature appreciation,
4 non-motorized trails, environmental interpretation and native habitat
5 protection, shall be maintained.

6 5. Preference shall be given to the development and enhancement of public
7 access to the shoreline to increase fishing, kayaking and other water-related
8 recreational opportunities.

9 B. General Performance Standards

10 1. The potential adverse impacts of all recreational uses shall be mitigated and
11 adequate provisions for shoreline rehabilitation shall be made part of any
12 proposed recreational use or development to ensure no net loss of shoreline
13 ecological function.

14 2. Sites with fragile and unique shoreline conditions, such as high-quality
15 wetlands and wildlife habitats, shall be used only for non-intensive recreation
16 activities, such as trails, viewpoints, interpretive signage, and similar passive
17 and low-impact facilities that result in no net loss of shoreline ecological
18 function, and do not require the construction and placement of permanent
19 structures.

20 3. For proposed recreation developments that require the use of fertilizers,
21 pesticides, or other toxic chemicals, the proponent shall specify the BMPs to
22 be used to prevent these applications and resultant leachate from entering
23 adjacent waters.

24 4. Recreational developments shall be located and designed to preserve, enhance
25 or create scenic views and vistas.

26 5. In approving shoreline recreational developments, the City shall ensure that
27 the development will maintain, enhance, or restore desirable shoreline features
28 including unique and fragile areas, scenic views, and aesthetic values. The
29 City may, therefore, adjust or prescribe project dimensions, on-site location of
30 project components, intensity of use, screening, lighting, parking, and setback
31 requirements.

32 6. Signs indicating the public's right to access shoreline areas shall be installed
33 and maintained in conspicuous locations at all points of access.

34 7. Recreational developments shall provide facilities for non-motorized access to
35 the shoreline such as pedestrian and bicycle paths, and equestrian, as
36 applicable. New motorized vehicle access shall be located and managed to
37 protect riparian, wetlands and shrub steppe habitat functions and value.

38 8. Proposals for recreational developments shall include a landscape plan
39 indicating how native, self-sustaining vegetation is incorporated into the
40 proposal to maintain ecological functions. The removal of on-site native
41 vegetation shall be limited to the minimum necessary for the development of
42 permitted structures or facilities, and shall be consistent with provisions of

- 1 Section 14.08.240, Shoreline Vegetation Conservation and Article V, Critical
2 Areas.
- 3 9. Accessory uses and support facilities such as maintenance facilities, utilities,
4 and other non-water-oriented uses shall be consolidated and located in upland
5 areas outside shoreline, wetland, and riparian buffers unless such facilities,
6 utilities, and uses are allowed in shoreline buffers based on the regulations of
7 this SMP.
- 8 10. Recreational facilities shall make adequate provisions, such as screening,
9 landscaping buffer strips, fences and signs, to prevent trespass upon adjacent
10 properties and to protect the value and enjoyment of adjacent or nearby
11 private properties and natural areas, as applicable.
- 12 11. Recreational structures are only allowed to be built over water when they
13 provide public access or facilitate a water-dependent use and shall be the
14 minimum size necessary to accommodate the permitted activity.
- 15 12. Recreational developments shall make adequate provisions for:
16 a. Both on-site and off-site access
17 b. Appropriate water supply and waste disposal methods, and
18 c. Security and fire protection.
- 19 13. Structures associated with recreational development shall not exceed 35 feet
20 in height, except for as noted in Section 14.08.210, Development Standards
21 when such structures document that the height beyond 35 feet will not
22 obstruct the view of a substantial number of adjoining residences.
- 23 14. Recreational development shall minimize effective impervious surfaces in
24 shoreline jurisdiction and incorporate low-impact development techniques.

25 **14.08.380 Residential Development**

- 26 A. Single-family residential development is a preferred use when it is developed in a
27 manner consistent with pollution control and preventing damage to the natural
28 environment.
- 29 B. Residential development shall be located and constructed to result in no net loss of
30 shoreline ecological function. No net loss of shoreline ecological functions shall be
31 assured through application of shoreline buffers specified in Article V of this Chapter
32 to avoid future stabilization and other provisions of this SMP related to shoreline
33 stabilization, vegetation management, and on-site sewage disposal.
- 34 C. Lots for residential use shall have a maximum density consistent with the City's
35 Comprehensive Plan.
- 36 D. Accessory uses and structures shall be located outside of the riparian buffer, unless
37 the structure is or supports a water-dependent use.
- 38 E. All residential development shall be located or designed in such a manner as to
39 prevent measurable degradation of water quality from stormwater runoff. Adequate

- 1 mitigation measures shall be required and implemented where there is the reasonable
2 potential for such adverse effect on water quality.
- 3 F. Applications for new shoreline residences and appurtenant structures be sufficiently
4 set back from steep slopes and shorelines vulnerable to erosion so that structural
5 improvements, including bluff walls and other that shoreline stabilization and flood
6 control structures are not necessary to protect proposed residences and associated
7 uses.
- 8 G. New floating residences and over-water residential structures shall be prohibited in
9 shoreline jurisdiction.
- 10 H. New residential development shall connect with sewer systems, when available.
- 11 I. All new residential development shall be required to meet the vegetation management
12 provisions contained in Section 14.08.240, Shoreline Vegetation Conservation and
13 Section 14.08.570, Fish and Wildlife Habitat Conservation Areas.

14 **14.08.390 Shoreline Habitat and Natural Systems Enhancement Projects**

- 15 A. Shoreline restoration and enhancement activities designed to restore or enhance
16 shoreline ecological functions and processes and/or shoreline features should be
17 targeted toward meeting the needs of sensitive and/or regionally important plant, fish,
18 and wildlife species, and shall be given priority.
- 19 B. Shoreline restoration, enhancement, and mitigation activities designed to create
20 dynamic and sustainable ecosystems to assist the City in achieving no net loss of
21 shoreline ecological functions are preferred.
- 22 C. Restoration and enhancement activities shall be carried out in accordance with an
23 approved shoreline restoration plan, and in accordance with the provisions of this
24 SMP.
- 25 D. To the extent possible, restoration, enhancement, and mitigation activities shall be
26 integrated and coordinated with other parallel natural resource management efforts,
27 such as those identified in the shoreline restoration plan.
- 28 E. Habitat and expansion, restoration, and enhancement projects may be permitted
29 subject to required state or federal permits when the applicant has demonstrated that:
- 30 1. The project will not adversely impact spawning, nesting, or breeding in and
31 wildlife habitat conservation areas;
- 32 2. Fish and wildlife habitat conservation areas will not be adversely affected;
- 33 3. Water quality will not be degraded; and
- 34 4. Impacts to critical areas and buffers will be avoided and where unavoidable,
35 minimized and mitigated
- 36 F. The City shall review the projects for consistency with this SMP in an expeditious
37 manner and shall issue its decision along with any conditions within forty-five (45)
38 days of receiving all materials necessary to review the request for exemption from the
39 applicant (see Section 14.08.870, Exemptions from Shoreline Substantial
40 Development Permits).

1 **14.08.400 Shoreline Stabilization**

- 2 A. Shoreline restoration and enhancement activities designed to restore shoreline
3 ecological functions and processes and/or shoreline features should be targeted
4 toward meeting the needs of sensitive and/or regionally important plant, fish, and
5 wildlife species, and shall be given priority.
- 6 B. New shoreline stabilization for new development is prohibited unless it can be
7 demonstrated that reasonable use of a lot or parcel legally created prior to (date of
8 amendment adoption) is precluded without shore protection or is necessary to restore
9 ecological functions or hazardous substance remediation.
- 10 C. Proposed designs for new or expanded shoreline stabilization shall be designed in
11 accordance with applicable state guidelines, must use the most current, accurate, and
12 complete scientific and technical information available, must document that
13 alternative solutions are not feasible or do not provide sufficient protection; must
14 demonstrate that future stabilization measures would not be required on the project
15 site or adjacent properties; and be certified by a qualified professional.
- 16 D. Land subdivisions and lot line adjustments shall be designed to assure that future
17 development of the newly created lots will not require structural stabilization for
18 subsequent development to occur.
- 19 E. New or expanded structural shoreline stabilization is prohibited except when
20 necessity is demonstrated consistent with the requirements of WAC 173-26-
21 231(3)(a)(iii). Necessity is demonstrated through conclusive evidence documented
22 by a geotechnical analysis that there is a significant possibility that the structure will
23 be damaged within three (3) years as a result of shoreline erosion caused by
24 wind/wave action or other hydraulic forces, and only when significant adverse
25 impacts are mitigated to ensure no net loss of shoreline ecological functions and/or
26 processes.
- 27 F. Replacement of an existing shoreline stabilization structure with a similar structure is
28 permitted if there is a demonstrated need to protect existing primary uses, structures
29 or public facilities including roads, bridges, railways, irrigation and utility systems
30 from erosion caused by wave action; provided, that the existing shoreline stabilization
31 structure is removed from the shoreline as part of the replacement activity.
32 Replacement walls or bulkheads shall not encroach waterward of the ordinary high
33 water mark or existing structure unless the facility was occupied prior to the adoption
34 date of this SMP, and there are overriding safety or environmental concerns.
35 Proposed designs for new or expanded shore stabilization shall be in accordance with
36 applicable state guidelines and certified by a qualified professional.
- 37 G. Where a geotechnical analysis confirms a need to prevent potential damage to a
38 primary structure, but the need is not as immediate as three (3) years, the analysis
39 may still be used to justify more immediate authorization for shoreline stabilization
40 using bioengineering approaches.
- 41 H. Shoreline stabilization projects that are part of a fish habitat enhancement project
42 meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the

- 1 state process. Stabilization projects that are not part of such a fish enhancement
2 project will be regulated by this SMP.
- 3 I. Small-scale or uncomplicated shoreline stabilization projects (for example, tree
4 planting projects) shall be reviewed by a qualified professional to ensure that the
5 project has been designed using best available science.
- 6 J. Large-scale or more complex shoreline stabilization projects (for example, projects
7 requiring fill or excavation, placing objects in the water, or hardening the bank) shall
8 be designed by a qualified professional using best available science. The applicant
9 may be required to have a qualified professional oversee construction or construct the
10 project.
- 11 K. New stabilization structures, when found to be necessary, will implement the
12 following standards:
- 13 1. Limit the size of the project to the minimum amount necessary;
 - 14 2. Include measures to assure no net loss of shoreline ecological functions;
 - 15 3. Use biotechnical bank stabilization techniques unless those are demonstrated
16 to be infeasible or ineffective before implementing “hard” structural
17 stabilization measures.

18 **14.08.410 Transportation: Trails, Roads, and Parking**

- 19 A. New or expanded motor vehicle transportation facilities shall not be located within
20 shoreline jurisdiction, unless:
- 21 1. The proponent demonstrates that no feasible upland alternatives exist;
 - 22 2. The project represents the minimum development necessary to serve another
23 specific, localized, and permitted shoreline use; or
 - 24 3. In the case of a water crossing, the proponent demonstrates that the project is
25 necessary to further a substantial public interest.
- 26 B. When new roads or road expansions are unavoidable in shoreline jurisdiction,
27 proposed transportation facilities shall be planned, located, and designed to achieve
28 the following:
- 29 1. Meet mitigation sequencing provisions of Section 14.08.230, Environmental
30 Protection;
 - 31 2. Avoid adverse impacts on existing or planned water-oriented uses;
 - 32 3. Set back from the OHWM to allow for a usable shoreline area for vegetation
33 conservation and any preferred shoreline uses unless infeasible;
 - 34 4. Minimize grading, vegetation clearing, and alterations of the natural
35 topography; and
 - 36 5. Use BMPs for preventing erosion and degradation of surface water quality.
- 37 C. Improvements to existing motor vehicle facilities shall not interfere with pedestrian
38 and bicycle access, and shall whenever possible, provide for expansion and
39 enhancement of pedestrian and bicycle transportation facilities.

1 D. The development, improvement, and expansion of pedestrian and bicycle
2 transportation facilities are allowed within all environments. Such transportation
3 facilities are a preferred use wherever they are compatible with the natural character,
4 resources, and ecology of the shoreline.

5 E. Pedestrian and bicycle transportation facilities shall be designed, located, and
6 constructed consistent with the policies and regulations for public access as provided
7 in Section 14.08.260, Public Access of this SMP.

8 F. Parking facilities are not a water-dependent use and shall only be permitted in the
9 shoreline jurisdiction when located 50 feet upland of the edge of riparian vegetation
10 corridor and to support an authorized use where it can be demonstrated to the
11 satisfaction of the Shoreline Administrator that there are no feasible alternative
12 locations away from the shoreline. Parking as a primary use shall not be allowed in
13 any shoreline jurisdiction. Accessory parking facilities shall be subject to the same
14 permit type as the primary use.

15 G. Transportation and parking facilities shall be planned to avoid or minimize adverse
16 effects on unique or fragile shoreline features and shall not result in a net loss of
17 shoreline ecological functions or adversely affect existing or planned water-
18 dependent uses. Parking facilities shall be located upland of the principal structure,
19 building, or development they serve, and preferably outside of shoreline jurisdiction,
20 except:

- 21 1. Where the proponent demonstrates that an alternate location would reduce
22 adverse impacts on the shoreline and adjacent uses;
- 23 2. Where another location is not feasible; and/or
- 24 3. Except when Americans with Disability Act (ADA) standards require
25 otherwise.

26 In such cases, the applicant shall demonstrate use of measures to reduce adverse
27 impacts of parking facilities in shoreline jurisdiction, such as low impact development
28 techniques, buffering, or other measures approved by the Shoreline Administrator

29 H. Parking facilities shall be landscaped in a manner to minimize adverse visual and
30 aesthetic impacts on adjacent shoreline and abutting properties.

31 I. All forms of transportation facilities shall, wherever feasible, consolidate water
32 crossings and make joint use of rights-of-way with existing or planned future primary
33 utility facilities and other transportation facility modalities.

34 J. Improvements to all existing transportation facilities shall provide for the
35 reestablishment and enhancement of natural vegetation along the shoreline when
36 appropriate.

37 **14.08.420 Utilities**

38 A. Expansion of existing primary utility facilities within shoreline jurisdiction must
39 demonstrate:

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

30
31 **Article V. Critical Areas**

32 **14.08.500 Authority, Chapter and Procedures**

- 33 A. The City of Soap Lake shall regulate in the shoreline jurisdiction all uses, activities,
34 and development within, adjacent to, or likely to affect one or more critical areas,
35 consistent with the provisions of Article V – Critical Areas.

36 **14.08.510 Purpose – Goals – Policies**

- 37 A. Purpose. It is the purpose of this chapter to promote the public health, safety, and
38 general welfare in areas associated with specific resource lands and critical areas. It is
39 further intended to promote the enhancement and preservation of critical areas by
40 avoiding or minimizing adverse impacts from construction and development. In

1 addition to compliance with the Shoreline Management Act (RCW 90.58), this
2 chapter shall also comply with the state of Washington Growth Management Act
3 through the classification and designation of critical areas and the development and
4 implementation of regulations to protect critical areas in the public's interest and
5 welfare.

6 B. Goals. Preserve and protect the functions and values of the area's natural features and
7 maintain a harmonious relationship between the man-made community and the
8 natural environment.

9 C. Policies.

- 10 1. Designate critical areas.
- 11 2. Coordinate conservation strategies and efforts with appropriate state, federal,
12 and private agencies to take advantage of technical and financial assistance
13 while avoiding duplication of efforts.
- 14 3. Regulate development within critical areas and/or buffers to ensure public
15 safety, reduce financial impacts, and protect critical areas to ensure no net loss
16 of ecological function.
- 17 4. Allow for open space and recreational use of critical areas where such use
18 does not negatively impact the critical areas.

19 **14.08.520 Applicability and Critical Areas Map**

20 A. Applicability. The provisions of this chapter apply only to lands designated as critical
21 areas located within the shoreline jurisdiction within Soap Lake corporate limits and
22 urban growth area.

- 23 1. Properties containing critical areas are subject to this chapter.
- 24 2. When the requirements of this chapter are more stringent than those of other
25 Soap Lake codes and regulations, the requirements of this chapter shall apply.
- 26 3. Where a site contains two or more critical areas, the site shall meet the
27 minimum standards and requirements for each identified critical area as set
28 forth in this chapter.
- 29 4. The City shall not approve any land use, building or site improvement permit
30 or otherwise issue any authorization to alter the condition of any land or
31 vegetation, or to construct or alter any structure or improvement in, over, or
32 on a critical area or associated buffer, if the proposed activity does not comply
33 with the requirements of this chapter.

34 B. Critical Areas. Critical areas potentially located within the City include:

- 35 1. Critical aquifer recharge areas;
- 36 2. Fish and wildlife habitat conservation areas;
- 37 3. Frequently flooded areas
- 38 4. Geologically hazardous areas;
- 39 5. Wetlands.

- 1 C. Buffers. Critical areas include the protective buffer areas to lands identified as critical
2 areas.
- 3 D. Reference Maps and Inventories. The distribution of critical areas within the City are
4 described and displayed in reference materials. These reference materials are intended
5 for general information only and do not depict site-specific designations. These
6 reference materials include but are not limited to the following:
- 7 1. Maps
- 8 a. Any maps created through a critical areas review process;
- 9 b. WDFW priority habitats and species maps, as amended;
- 10 c. USGS quadrangle maps;
- 11 d. Flood insurance rate maps (FEMA), as amended;
- 12 e. Flood boundary and floodway maps (FEMA), as amended;
- 13 f. Aerial photographs;
- 14 g. USFWS national wetland inventory maps, as amended;
- 15 h. Maps prepared to support the SMP Inventory & Characterization
16 report;
- 17 i. Columbia Basin groundwater management area maps, as amended;
- 18 j. Columbia Basin irrigation project topography and retracement maps
19 from 1939 through 1943 and from 1960, as well as other
20 preconstruction and construction maps developed for the project;
- 21 k. Previously completed maps in the vicinity of a permit application.
- 22 2. Documents
- 23 a. Flood insurance study for Grant County, as amended;
- 24 b. City of Soap Lake comprehensive plan, as amended;
- 25 c. Natural Resources Conservation Service Soil Survey for Grant
26 County;
- 27 d. Washington State Wetlands Identification and Delineation Manual
28 (WDOE No. 96-94), as amended;
- 29 e. Washington State Wetlands Rating System for Eastern Washington
30 (Revised, Publication No. 04-06-015, August 2004), as revised;
- 31 f. Management Recommendations for Washington's Priority Habitats
32 and Species (WDFW) as amended;
- 33 g. Management Recommendations for Washington's Priority Habitats –
34 Wetlands (WDFW) as amended;
- 35 h. Information and reference documents in the SMP Inventory, Analysis,
36 and Characterization report, as applicable.

- 1 i. Previously completed special reports conducted in the vicinity of a
- 2 permit application;
- 3 j. Columbia Basin Ground Water Management Area Plan, as amended.
- 4 E. Use of Existing Procedures and Laws. The following laws and procedures shall be
- 5 used to implement this chapter:
 - 6 1. Soap Lake Municipal Code. Development activity regulated by SLMC Titles
 - 7 16, Subdivisions, and 17, Zoning, that will occur within a protected critical
 - 8 area or critical area buffer within the shoreline jurisdiction shall comply with
 - 9 the provisions of this chapter.
 - 10 2. The State Environmental Policy Act (SEPA), Chapter 43.21C RCW.
 - 11 Development activity that is likely to have a significant adverse impact upon
 - 12 identified critical areas regulated by this chapter shall not be categorically
 - 13 exempt from SEPA review and shall demonstrate compliance with this
 - 14 chapter.
- 15 F. State and Federal Agency Review. Regulated activities subject to this chapter shall be
- 16 routed to appropriate state and federal agencies for review and comment as required
- 17 through the SEPA review process.
- 18 G. Applicability by Activity. The level of review required for uses or activities is
- 19 established under this chapter.
 - 20 1. Exempt (E). Activities or uses that are exempt require no review and do not
 - 21 need to meet the standards of this chapter.
 - 22 2. Review Required (RR). Activities and uses that are categorized as “review
 - 23 required” must comply with the standards of the chapter but no special report
 - 24 is needed. Determination of compliance with this chapter shall be determined
 - 25 through the review process required for the underlying development permit
 - 26 application.
 - 27 3. Critical Area Report (CAR). For activities where a critical area report is
 - 28 required, the applicant must submit a report consistent with this chapter and
 - 29 with the underlying development application and will submit additional
 - 30 application fees consistent with the adopted fee schedule.
 - 31 4. The Shoreline Administrator shall have the discretion to determine whether
 - 32 the proposed activity may adversely impact protected critical areas and/or
 - 33 their buffers and shall assign the appropriate level of review, exempt, review
 - 34 required, or critical areas report. The decision of the Shoreline Administrator
 - 35 may be appealed to the hearing examiner.

36 **14.08.530 Allowed Uses**

- 37 A. Approval Required. Unless the requirements of this chapter are met, Soap Lake shall
- 38 not grant any approval or permission to alter the condition of any land, water, or
- 39 vegetation, or to construct or alter any structure or improvement regulated through the
- 40 following: building permit, commercial or residential; binding site plan; franchise
- 41 right-of-way construction permit; site development permit; right-of-way permit;

1 shoreline permits; short subdivision; use permits; subdivision; utility permits; or any
2 subsequently adopted permit or required approval not expressly exempted by this
3 chapter.

4 B. Compliance with Federal or State Requirements. Compliance with these regulations
5 does not remove an applicant’s obligation to comply with applicable provisions of
6 any other federal, state, or local law or regulation.

7 C. Review Process. The uses listed in this section may be approved, subject to a review
8 process, if the proposed development activity meets the standards in SLMC
9 14.08.520, Development standards, and SLMC 14.08.630, Mitigation.

10 D. Allowed Uses. The City may allow the following uses on critical areas and within
11 buffer areas subject to the review and mitigation requirements of this chapter:

- 12 1. Pervious trails for nonmotorized uses;
- 13 2. Water-dependent uses;
- 14 3. Removal of diseased or dangerous trees, as determined by the City public
15 works director or the removal of invasive or nuisance plants;
- 16 4. Construction, replacement, or alteration of a single-family dwelling unit in a
17 residential zoning district on a legal lot of record, created prior to the effective
18 date of the ordinance codified in this chapter so long as the replacement or
19 expansion achieves no net loss of ecological function, conforms to the height
20 regulations, lot coverage and dimension standards and other design provisions
21 for the zone in which the residence is located. The dwelling unit shall be used
22 solely for single-family purposes. Approval is subject to a review process. The
23 City may modify underlying zoning district dimensional standards applicable
24 by up to a 50 percent adjustment, if necessary to protect critical areas;

25 **14.08.540 Exemptions**

26 A. Exempt Activities in All Critical Areas. The following developments, activities, and
27 associated uses shall be exempt from the provisions of this chapter; provided, that
28 they are otherwise consistent with the provisions of this chapter and other local, state,
29 and federal laws and requirements, and a written request for exemption has been filed
30 with and approved by the planner.

31 B. The Shoreline Administrator shall have the authority to negotiate memoranda of
32 agreements with utility service providers or public agencies, and said agreements
33 shall specify best management practices to be used in situations of emergency and
34 usual and customary repair which, if rigorously adhered to, may exempt said
35 emergency or repair activity, including routine operation and maintenance, from
36 further review under this chapter.

- 37 1. Emergencies. Emergency activities are those activities necessary to prevent an
38 immediate threat to public health, safety, or welfare, or that pose an
39 immediate risk of damage to private property and that require remedial or
40 preventative action in a timeframe too short to allow for compliance with the
41 requirements of this chapter. Emergency actions that create an impact to a
42 critical area or its buffer shall use reasonable methods to address the

1 emergency; in addition, they must have the least possible impact to the critical
2 area or its buffer. The person or agency undertaking such action shall notify
3 the City within one working day following commencement of the emergency
4 activity. Following the emergency, appropriate mitigation shall be
5 implemented and permanent activities, installations or impacts are subject to
6 review and compliance with the applicable standards.

7 a. Authorization. Notwithstanding the provisions of this chapter, the
8 Shoreline Administrator may issue a temporary emergency permit
9 prospectively or, in the case of imminent threats to public health,
10 safety or welfare, retroactively, where the anticipated threat or loss
11 may occur before a permit can be issued or modified under the
12 procedures otherwise required by the Act and other applicable laws.

13 b. Prior to issuing an emergency permit, the Shoreline Administrator
14 shall issue a finding that extraordinary circumstances exist and that the
15 potential threat to public health, safety or welfare from the emergency
16 situation is clearly significant and substantial.

17 c. Conditions. Any emergency permit granted shall incorporate, to the
18 greatest extent practicable and feasible but not inconsistent with the
19 emergency situation, the standards and criteria required for
20 nonemergency activities under the Act and shall:

21 i. Be limited in duration to the time required to complete the
22 authorized emergency activity, not to exceed 90 days; and

23 ii. Require, within this 90-day period, the restoration of any
24 wetland altered as a result of the emergency activity, except
25 that if more than the 90 days from the issuance of the
26 emergency permit is required to complete restoration, the
27 emergency permit may be extended to complete this
28 restoration.

29 d. Notice. Notice of issuance of an emergency permit shall be published
30 in a newspaper having general circulation in the City of Soap Lake not
31 later than 10 days after issuance of such permit.

32 e. Termination. The emergency permit may be terminated at any time
33 without process upon a determination by the City that the action is no
34 longer necessary to protect human health or the environment.

35 2. Repair. Repair or replacement of existing structures, infrastructure
36 improvements, utilities, public or private roads, dikes, levees or drainage
37 systems, including operation and maintenance of existing facilities, that do not
38 require construction permits, if the activity does not further alter or increase
39 the impact to, or encroach further within, the critical area or buffer and there is
40 no increased risk to life or property as a result of the proposed maintenance or
41 repair.

42 3. Activities within the Improved Public Right-of-Way or Recorded Easement.
43 Replacement, modification, installation, or construction of utility facilities,

- 1 lines, pipes, mains, equipment, or appurtenances, not including substations,
2 when such facilities are located within the improved portion of the public
3 right-of-way or recorded easement, or a city-authorized private roadway
4 except those private activities that alter a wetland or watercourse, such as
5 culverts or bridges, or result in the transport of sediment or increased storm
6 water.
- 7 4. Chemical Applications. The application of herbicides, pesticides, organic or
8 mineral derived fertilizers, or other hazardous substances, if necessary;
9 provided, that their use shall be restricted in accordance with Department of
10 Fish and Wildlife Management recommendations and the regulations of the
11 Department of Agriculture and the U.S. Environmental Protection Agency.
- 12 5. Minor Site Investigative Work. Work necessary for land use submittals, such
13 as surveys, soil logs, percolation tests, and other related activities, where such
14 activities do not require construction of new roads or significant amounts of
15 excavation. In every case, impacts to the critical area shall be minimized and
16 disturbed areas shall be immediately restored.
- 17 6. Boundary Markers. Construction or modification of boundary markers or
18 fences.
- 19 7. Construction and modifications to existing structures that do not increase the
20 footprint of the structure.
- 21 8. The removal of the following vegetation with hand labor and light equipment,
22 and vegetation removal that is a hazard to electrical power lines with handheld
23 and walk-beside equipment such as mowers and weed eaters in compliance
24 with the provisions contained in the ANSI A300 (Part 1) guidelines,
25 including, but not limited to:
- 26 a. Invasive nonnative weeds.
- 27 b. Emergency or hazard tree removal conducted so that habitat impacts
28 are minimized.
- 29 c. Public improvement projects located within existing impervious
30 surface areas.
- 31 9. Passive recreational activities, including, but not limited to: fishing, bird
32 watching, hiking, hunting, boating, horseback riding, skiing, swimming,
33 canoeing, and bicycling; provided the activity does not alter the critical area or
34 its buffer by changing drainage patterns, topography, water conditions or
35 water sources.
- 36 C. Exemption Request and Review Process. The proponent of the activity shall submit a
37 completed exemption request form to the Shoreline Administrator that describes the
38 activity and states the exemption listed in this section that applies. The Shoreline
39 Administrator shall review the exemption request to verify that it complies with this
40 chapter and approve or deny the exemption. If the exemption is approved, it shall be
41 placed on file with the department and the requesting party notified. If the exemption
42 is denied, the proponent may continue in the review process and shall be subject to

1 the requirements of this chapter. Determinations shall be subject to appeal pursuant to
2 SLMC 14.08.910, Appeals.

3 D. Exempt Activities Shall Minimize Impacts to Critical Areas. All exempted activities
4 shall use reasonable methods to achieve no net loss of ecological function to critical
5 areas. To be exempt from this chapter does not give permission to degrade a critical
6 area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a
7 critical area that is not a necessary outcome of the exempted activity shall be restored,
8 rehabilitated, or replaced at the responsible party's expense.

9 **14.08.550 Critical Area – Critical Aquifer Recharge Areas**

10 A. Purpose. It is the intent of the City of Soap Lake to promote public health and safety
11 by acknowledging the importance of preserving critical aquifer recharge areas located
12 within the shoreline jurisdiction. These areas serve the vital function of replenishing
13 groundwater resources which, in Eastern Washington, account for a major share of
14 the water for irrigation, municipal, industrial and domestic uses. Potable water is an
15 essential life-sustaining element. Much of Washington's water comes from
16 groundwater supplies. Preventing contamination is necessary to avoid exorbitant
17 costs, hardships and potential physical harm to people.

18 B. Goals and Policies. The following reflect the goals and policies of the community:

19 1. Goal. The City seeks to protect the public health, safety and welfare of its
20 residents by providing protection of potable water sources.

21 2. Policies.

22 a. As data becomes available, identify, map and maintain critical
23 groundwater supply areas, aquifer recharge areas, and/or unconfined
24 aquifers used for potable water.

25 b. Prohibit the placement, storage generation and/or disposal of
26 hazardous materials, including fuel, within a critical aquifer recharge
27 area.

28 c. Divisions of land within aquifer recharge areas will be evaluated for
29 their impact on groundwater quality.

30 d. The City will support and encourage the Washington State Department
31 of Ecology efforts to enforce the decommissioning requirements for
32 unused wells.

33 C. Classification and Designation – The “Columbia Basin Ground Water Management
34 Area Plan” (GWMA). Primary focus is to reduce nitrate in groundwater of the
35 GWMA; significant scientific data has been developed that identifies, among other
36 things, where there are groundwater areas in the City of Soap Lake that may be
37 susceptible to contaminant loading. For the purposes of this code, those areas with
38 exposed basalt complex basalt flows are “critical aquifer recharge areas.” Any
39 activities, particularly municipal, industrial, commercial and agricultural activities,
40 that involve the collection and storage of substances that, in sufficient quantity during
41 an accidental or intentional release, would result in the impairment of the aquifer
42 water to be used as potable drinking water liquids shall be regulated by this chapter.

1 Furthermore, the City water plan identifies well-head protection areas which shall be
2 considered a part of critical aquifer recharge areas (CARA).

3 D. Management Recommendations and Standards. The following management
4 recommendations and standards will apply to development proposals determined to
5 be located within critical aquifer recharge areas, as defined and described herein:

- 6 1. The appropriate agency(ies) will develop educational information to assist
7 with informing people with shallow wells how best to manage and protect
8 their potable water source.
- 9 2. The City will support the GWMA and local conservation districts in their
10 efforts to educate agricultural producers about the best management practices
11 for protecting groundwater quality.
- 12 3. Development activities within a critical aquifer recharge area that have a high
13 potential for contamination shall be required to do a hydrological study, using
14 best available science, and shall develop and implement protection measures
15 to prevent contamination.
- 16 4. Any changes in land use or type of new facilities where substances of
17 moderate risk are used, stored, treated or handled; or which produce moderate
18 risk waste shall be designed to prevent the release of any such materials into
19 the groundwater.
- 20 5. Surface impoundments, defined by Chapter 173-303 WAC, shall be designed
21 by a professional engineer and constructed with an impermeable liner and
22 other components as appropriate to prevent discharge of any material on the
23 ground surface and/or into the groundwater system. Surface impoundments
24 shall be designed and constructed in accordance with applicable governing
25 law, and have a minimum excess capacity equal to 120 percent of the
26 projected volume of liquid to be contained including intentional and
27 unintentional stormwater capture.
- 28 6. All developments, as defined and described herein, authorized within an
29 aquifer recharge area shall comply with the following standards:
 - 30 a. Connection to a public sanitary sewer system shall be required.
 - 31 b. The connection to an approved public water service shall be required.
 - 32 c. The City will support and encourage the Washington State Department
33 of Ecology efforts to enforce the well-casing requirements.
 - 34 d. Stormwater detention and retention facilities shall be designed using
35 best available science and management practices to separate chemical
36 and biological pollutants from the water.
 - 37 e. An analysis shall be conducted to assess the impact to groundwater
38 quality from the potential of nitrate loading to the groundwater.
 - 39 f. Areas highly susceptible of transporting contaminants to the
40 groundwater (i.e., natural drainages, springs, wetlands, etc.), as

1 determined by the review authority, shall be designated as critical
2 aquifer recharge areas.

3 g. All impervious surfaces shall maintain an appropriate setback from
4 areas identified as being highly susceptible and no amount of
5 stormwater runoff shall be directed towards the susceptible area(s).

6 7. Parks, Schools and Recreation Facilities. Fertilizer and pesticide management
7 practices of schools, parks, other recreation facilities and similar uses shall use
8 best management practices as prescribed by the Washington State University
9 Cooperative Extension Services.

10 8. All major and minor developments containing a wellhead protection area or
11 critical aquifer recharge area shall have an informational note placed on the
12 face of plat stating “this area is located within an aquifer recharge area. Best
13 management practices shall be used for the containment of stormwater and the
14 application of pesticides and fertilizers.”

15 **14.08.560 Critical area – Fish and Wildlife Habitat Conservation Areas**

16 A. Purpose and Objectives. The City of Soap Lake recognizes the importance of
17 protecting future annexed or discovered fish and wildlife habitat conservation areas
18 located within the shoreline jurisdiction while at the same time encouraging
19 continued economic development of the City, including the continuation of
20 agriculture. Implementation of this section is directed toward preserving resources by
21 steering incompatible development away from these areas and/or by providing
22 adequate and appropriate mitigation measures to development that alleviate negative
23 impacts. The following reflect the goals and policies of the community.

24 B. Goal. Protect fish and wildlife habitat areas as important natural resource areas.

25 C. Policies.

26 1. The City will consider the impacts of new development on the quality of land,
27 wildlife and vegetative resources as part of its environmental review process
28 and require any appropriate mitigation measures.

29 2. Land uses adjacent to naturally occurring ponds and other fish and wildlife
30 habitat areas will not negatively impact the habitat areas. If a change in land
31 use occurs, adequate buffers based on the most current, accurate, and
32 complete scientific or technical information available will be provided to
33 protect the habitat areas.

34 D. Objectives. The following objectives are the guiding factors in the application of this
35 section to future development in the City of Soap Lake:

36 1. Identify and map categories of fish and wildlife habitat conservation areas,
37 based in part on information supplied by Washington Department of
38 Wildlife’s Priority Habitat and Species Program, and other sources.

39 2. Use the most current, accurate, and complete scientific or technical
40 information available.

- 1 3. Cooperate with federal, state and private agencies, and individuals who have
2 primary authority to manage specific fish and wildlife habitat conservation
3 areas within certain parts of the City.
- 4 4. Encourage preservation of adequate size blocks of land necessary for species
5 survival and corridor areas that allow for migratory travel.
- 6 5. The City recognizes that species of wildlife in this locality are in a state of
7 continuing flux, and a prudent understanding of this phenomenon is vital in
8 guiding decision-makers to balance conservation of wildlife species with
9 promotion of wise, desirable growth.
- 10 6. Development decisions will serve to protect local wildlife needs and reflect
11 the values and desires of the public and achieve no net loss of ecological
12 function.
- 13 7. The City recognizes the need for a degree of flexibility in weighing the
14 significance of different areas of fish and wildlife habitat conservation.
15 Specifically, the magnitude of protection for priority habitat areas is
16 anticipated to be more pronounced than that which addresses important habitat
17 areas.
- 18 E. Identification. According to WAC 365-190-080, “fish and wildlife habitat
19 conservation” means land management for maintaining species in suitable habitat
20 within their natural geographical distribution so that isolated subpopulations are not
21 created. This does not mean maintaining all individuals of all species and all times,
22 but it does mean cooperative and coordinated land use planning is critically important
23 among counties and cities in a region. In some cases, intergovernmental cooperation
24 and coordination may show that it is sufficient to assure a species will usually be
25 found in certain regions across the state.
- 26 1. “Areas of fish and wildlife habitat conservation” are defined as:
 - 27 a. Areas with which federal or state endangered, threatened and sensitive
28 species of fish, wildlife or plants have a primary association; or
 - 29 b. Habitats and species of local importance, which could include areas
30 with state listed monitor or candidate species, or federally listed
31 candidate species, or species with high recreational value (game, etc.)
32 that have primary association; or
 - 33 c. Naturally occurring ponds under 20 acres and their submerged aquatic
34 beds that provide fish or wildlife habitat; or
 - 35 d. Waters of the state; or
 - 36 e. Lakes, ponds, streams and rivers planted with game fish by a
37 governmental entity (these include water bodies planted under
38 auspices of a federal, state or local program, or which support
39 important fish species as identified by Washington Department of
40 Wildlife); or

- 1 f. Federal, state and private natural area preserves and natural resource
2 conservation areas.
- 3 2. The City of Soap Lake allows for the nomination of species/habitats of local
4 importance, which process shall be included in the amendment process
5 identified in SLMC 14.08.490, Amendments to the Shoreline Master Program.
6 In order to nominate species/habitats of local importance as candidates for
7 designation within the category of important habitat areas, an individual or
8 organization must:
 - 9 a. Demonstrate a need for special consideration;
 - 10 b. Propose relevant management strategies considered effective and
11 within the scope of this chapter;
 - 12 c. Provide species habitat location(s) on a map (scale 1:24,000).
- 13 3. In order to accommodate the needs and desires of the residents, public input
14 shall be required to include species and/or habitats in the important habitat
15 area classification identified in this section. Where the habitats and species
16 classified as priority habitat area are responsive, concurrently, with official
17 changes in federal and/or state threatened or endangered listings/de-listings, to
18 include or un-include species and/or habitats in the important habitat area
19 classification, these regulations must be amended through a formal process for
20 nomination as described in this regulation.
- 21 4. There are no “anadromous fisheries” within the City of Soap Lake.
- 22 F. Classification. Fish and wildlife habitat conservation areas will be classified and
23 designated as follows, based on a variety of data sources as identified herein:
 - 24 1. Priority Habitat Areas. Seasonal ranges and habitat elements with which
25 federal and/or state listed sensitive, endangered or threatened species have a
26 primary association and which, if altered, may reduce the likelihood that the
27 species will maintain and reproduce over the long term;
 - 28 a. Critical freshwater habitats include those portions of Soap Lake and
29 flood plains designated as such by the Shoreline Administrator.
 - 30 2. Important Habitat Areas. Habitat areas that are associated with and actively
31 utilized by federal and/or state candidate species and species designated as
32 being of local importance according to the nomination process.
- 33 G. Determination Process. The City of Soap Lake will review each development permit
34 application to determine if the provisions of this section will be applied to the project.
35 In making the determination, the City may use any of the reference maps and/or
36 inventories identified in (the General Provisions Chapter) of this regulation. The
37 following progressive steps will occur upon a determination by the City that a fish
38 and/or wildlife habitat conservation area may exist on a site proposed for a
39 development permit.
 - 40 1. Step One. Staff will determine if there are any possible fish and/or wildlife
41 habitat conservation areas on site. This determination shall be made following

1 a review of information available, as outlined in SLMC Title 13, as well as a
2 site inspection and/or a consultation with a qualified fish and/or wildlife
3 biologist, if deemed necessary by the City. If no fish and/or wildlife habitat
4 conservation area is determined to be present, this section shall not apply to
5 the review of the proposed development.

- 6 2. Step Two. If it is determined by staff that a fish and/or wildlife habitat
7 conservation area may be present, a site inspection and consultation with
8 federal and/or state wildlife agency personnel shall be conducted to more
9 definitively determine if a fish and/or wildlife habitat conservation area exists
10 on the site. If no, this section shall not apply to the review of the proposed
11 development. If yes, the applicant shall submit a habitat boundary survey and
12 a habitat management and mitigation plan, as provided for in this section.

13 H. Designation.

- 14 1. If an area that is subject to a development permit application is determined to
15 be a priority habitat area after going through the determination process
16 described herein, it shall be designated as such, and a habitat boundary survey
17 and a habitat management and mitigation plan shall be developed as provided
18 for in this section.
- 19 2. If an area that is subject to a development permit application is determined to
20 be an important habitat area after going through the determination process
21 described herein, it shall be designated as such, and habitat boundary survey
22 and a habitat management and mitigation plan may be required as provided
23 for in this section. Designation as either a priority or important habitat area is
24 not intended to deny development opportunities; rather, it is aimed at either
25 steering growth to more suitable areas where fish and wildlife values will not
26 be unduly compromised, or developing appropriate and adequate mitigation
27 measures to alleviate potential negative impacts.

28 I. Fish/Wildlife Habitat Boundary Survey.

- 29 1. If it is determined through the process identified herein that a priority habitat
30 area exists on a site that is the subject of a development permit application, a
31 fish/wildlife habitat boundary survey and evaluation shall be conducted by a
32 fish or wildlife biologist, as appropriate, who is knowledgeable of wildlife
33 habitat within Grant County. The wildlife habitat boundary shall be field
34 staked by the biologist and surveyed by a land surveyor for disclosure on all
35 final plats, maps, etc.
- 36 2. If it is determined through the process identified herein that an important
37 habitat area exists on a site that is the subject of a development permit
38 application, a fish/wildlife habitat boundary survey and evaluation may be
39 required if the proposal meets the definition of “major development” as
40 described within this regulation, and if the proposal is determined to have a
41 probable adverse impact on the habitat area. When required, all provisions of
42 the habitat boundary survey and evaluation described in this section shall be
43 followed.

3. The Shoreline Administrator may waive the requirement for the survey for minor development if:
 - a. The proposed development is not within the extended proximity of the associated habitat;
 - b. There is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures; and
 - c. The applicant provides voluntary deed restrictions that are approved by the City.
4. The fish/wildlife habitat boundary and any associated buffer shall be identified on all plats, maps, plans and specifications submitted for the project.

J. Fish/Wildlife Habitat Buffers.

1. Riparian buffers for lakes within Soap Lake are as follows:

Table 14.08.570 (J). Riparian Buffer Width

Environment Designation	Riparian Buffer Width (Feet)^{1, 2}
Urban Conservancy	75
Recreation	50
Public Recreation Conservancy	75
Shoreline Residential	50
Shoreline Residential – Low Density	75

¹ Measured from the 1028-foot mean sea level (MSL) elevation, as this elevation is controlled by the U.S. Bureau of Reclamation.
² Accompanied by other critical area protections, and stormwater management measures, as applicable

K. Fish/Wildlife Habitat Management and Mitigation Plan. A fish/wildlife habitat management and mitigation plan is required for all proposed developments determined to be within a priority habitat area. For those proposed developments determined to be within important habitat area, a fish/wildlife habitat management and mitigation plan may be required if it is determined by the City that the proposal will have probable adverse impacts on the habitat area.

1. When required, a fish/wildlife habitat management and mitigation plan shall be prepared by a biologist who is knowledgeable of wildlife habitat within Grant County.
2. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, that there is no net loss of ecological function of habitat.
3. Based on the most current, accurate, and complete scientific and technical information available, the fish/wildlife habitat management and mitigation plan shall identify how impacts from the proposed project shall be mitigated, as well as the necessary monitoring and contingency actions for the continued maintenance of the habitat conservation area and any associated buffer.

- 1 4. The fish/wildlife habitat management and mitigation plan shall include maps
2 and narrative descriptions that address at least the following items, and in the
3 following sequence:
 - 4 a. Avoiding the impact altogether by not taking a certain action or parts
5 of an action;
 - 6 b. Minimizing impacts by limiting the degree or magnitude of the action
7 and its implementation, by using appropriate technology, or by taking
8 affirmative steps to avoid or reduce impacts;
 - 9 c. Rectifying the impact by repairing, rehabilitating or restoring the
10 affected environment;
 - 11 d. Compensating for the impact by replacing, enhancing or providing
12 substitute resources or environments.
- 13 5. A plan by the applicant that explains how any adverse impacts created by the
14 proposed development will be mitigated, including without limitation the
15 following techniques:
 - 16 a. Use of any federal, state or local management recommendations which
17 have been developed for the species or habitats in the area;
 - 18 b. Establishment of appropriate and adequate buffer zones;
 - 19 c. Preservation of critically important plants and trees;
 - 20 d. Limitation of access to the habitat conservation area;
 - 21 e. Seasonal restriction of construction activities;
 - 22 f. Establishment of a timetable for periodic review of the plan.
- 23 6. A detailed discussion of ongoing management practices which will protect the
24 habitat conservation area after the project site has been fully developed,
25 including proposed monitoring, contingency, maintenance and surety
26 programs.
- 27 7. Activities or uses which would strip the shoreline of vegetative cover, cause
28 substantial erosion or sedimentation or affect aquatic life, should be
29 prohibited.
- 30 8. The Shoreline Administrator may waive the requirement for the habitat
31 management and mitigation plan for minor development if:
 - 32 a. The proposed development is not within the 25-foot extended
33 proximity of the associated habitat;
 - 34 b. There is adequate information available on the area proposed for
35 development to determine the impacts of the proposed development
36 and appropriate mitigating measures; and
 - 37 c. The applicant provides voluntary deed restrictions that are approved
38 by the City.

1 **14.08.570 Critical area – Frequently Flooded Areas**

- 2 A. Purpose and Objectives. As of the adoption of the ordinance codified in this chapter,
3 there are no FEMA floodplains in the City of Soap Lake’s shoreline jurisdiction.
4 However, it is the intent of the City to recognize and diminish potential hazards that
5 may be caused by future annexations in areas where severe and costly flooding is
6 anticipated to occur. Based on historical observation and information collected by the
7 Federal Emergency Management Agency, the City endorses a cautious posture that
8 limits construction in areas located within zones designated to be flood prone. This
9 decision stems from local, as well as state and federal, understanding that
10 development limitation in these areas helps to serve the health, safety and public
11 welfare of the people of the City of Soap Lake.
- 12 B. The following reflect the goals and policies of the community:
- 13 1. Goals. Protect the frequently flooded areas that are known to be critical parts
14 of the natural drainage system by limiting and controlling potential alterations
15 and/or obstructions to those areas.
- 16 2. Policies.
- 17 a. Discourage land use practices that may impede the flow of floodwater
18 or cause danger to life or property. This includes, but is not limited to,
19 filling, dumping, storage of materials, structures, buildings, and any
20 other works which, when acting alone or in combination with other
21 existing or future uses, would cause damaging flood heights and
22 velocities by obstructing flows.
- 23 b. Maintain and add catch basins or similar measures, as needed to
24 protect the health, safety, and welfare of residents and the
25 environment.
- 26 C. Classification. Classification of frequently flooded areas should include, at a
27 minimum, the 100-year floodplain designations of the Federal Emergency
28 Management Agency and the National Flood Insurance Program. The following
29 categories of frequently flooded areas established for the purpose of classification are:
- 30 1. Floodways. The channel of a stream, plus any adjacent floodplain areas, that
31 must be kept free of encroachment in order that the base flood is carried
32 without substantial increases in flood heights.
- 33 2. Floodplains. The floodway and special flood hazard areas.
- 34 3. Special Flood Hazard Areas. The area adjoining the floodway which is subject
35 to a one percent or greater chance of flooding in any given year, as identified
36 in the Grant County Flood Insurance Study (July 26, 1977), and determined
37 by the Federal Insurance Administration.
- 38 D. Designation. All lands, shorelines and waters which are currently identified within the
39 100-year floodplain in the Federal Emergency Management Agency entitled “The
40 Flood Insurance Study for the County of Grant,” dated July 26, 1977, with
41 accompanying Flood Insurance Rate and Boundary Maps, are designated as

frequently flooded areas. If and when this study becomes updated to reflect new conditions, designation of frequently flooded areas will include the changes.

14.08.580 Critical area – Geologically hazardous areas.

A. Purpose. It is the intent of the City to reduce the threat posed to the health and safety of its citizens from commercial, residential or industrial development that may be sited in areas of significant geologic hazard. In some cases, it is recognized that risks from geologic hazards can be reduced or mitigated to acceptable levels through engineering design or modified construction practices. In other cases where technological efforts are not sufficient to reduce associated risks, building is best avoided. The following reflect the goals and policies of the community:

1. Goal. Provide appropriate measures to either avoid or mitigate significant risks that are posed by geologic hazard areas to public and private property and to public health and safety.
2. Policies. When probable significant adverse impacts from geologically hazardous areas are identified during the review of a development application, documentation that fully addresses these potential impacts and identifies alternative mitigation measures to eliminate or minimize the impacts will be required.

B. Identification. Geological hazards pose a threat to public health and safety. Adequate identification and development standards reduce these risks. Hazards of concern that exist in the City of Soap Lake’s shoreline jurisdiction include any land containing soils, geology or slopes that meet any of the following criteria:

1. Areas with slopes in excess of 45 percent;
2. Areas with all three of the following characteristics:
 - a. Soil types with the properties of the Ringold formation (clay);
 - b. Areas with the potential for water loading; and
 - c. Slopes in excess of 15 percent;
3. Soils within the City that are especially subject to wind erosion;
4. Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking; and/or
5. Areas highly susceptible to liquefaction from seismic activity.

C. Classification and Designation.

1. All geologically hazardous areas shall be classified and designated according to the level of risk associated with the hazardous area as established through an approved geologic hazard risk assessment and/or a geotechnical report submitted by the applicant in accordance with this chapter. On-site inspections and the information sources identified in this chapter shall be used as guidance in identifying the presence of potential geologically hazardous areas.
2. Geologically hazardous areas in the City of Soap Lake shall be classified according to the following system:

- 1 a. Level 1. Critical hazard areas shall be those areas with a known risk.
- 2 b. Level 2. Awareness hazard areas shall be those areas that have a
- 3 suspected risk.

- 4 D. Determination Process. The City will review each development permit application to
- 5 determine if the provisions of this section will be applied to the project. In making the
- 6 determination, the City may use any of the reference maps and/or inventories
- 7 identified in SLMC 14.08.520.

- 8 1. Step One. Staff will determine if there are any possible geologically hazardous
- 9 areas on site as defined herein. This determination will be made following a
- 10 review of information available and a site inspection if appropriate. If no
- 11 hazard area is determined to be present, this section shall not apply to the
- 12 review of the proposed development.

- 13 2. Step Two. If it is determined that a geologically hazardous area may be
- 14 present, the applicant shall submit a geologic hazard area risk assessment
- 15 prepared by a licensed engineer or a licensed geologist. The risk assessment
- 16 will include a description of the geology of the site and the proposed
- 17 development; an assessment of the potential impact the project may have on
- 18 the geologic hazard; an assessment of what potential impact the geologic
- 19 hazard may have on the project; appropriate mitigation measures, if any; and a
- 20 conclusion as to whether further analysis is necessary. The assessment will be
- 21 signed by and bear the seal of the engineer or geologist that prepared it. No
- 22 further analysis shall be required if the geologic hazard area risk assessment
- 23 concludes that there is no geologic hazard present on the site, nor will the
- 24 project affect or be affected by any potential geologic hazards that may be
- 25 nearby.

- 26 3. Step Three. If the professional preparing the risk assessment in step two
- 27 concludes that further analysis is necessary, the applicant shall submit a
- 28 geotechnical report as provided for herein.

- 29 E. A proposed development cannot be approved if it is determined by the geotechnical
- 30 report that either the proposed development or adjacent properties will be at risk of
- 31 damage from the geologic hazard, or that the project will increase the risk of
- 32 occurrence of the hazard, and there are no adequate mitigation measures to alleviate
- 33 the risks.

- 34 F. Geotechnical Report.

- 35 1. All geotechnical reports shall be prepared by a civil engineer licensed to
- 36 practice in the state of Washington.

- 37 2. A geotechnical report shall include a description of the geology of the site,
- 38 conclusions and recommendations regarding the effect of geologic conditions
- 39 on the proposed development, and opinions and recommendations on the
- 40 suitability of the site to be developed. The report shall evaluate the actual
- 41 presence of geologic conditions giving rise to the geologic hazard, and an
- 42 evaluation of the safety of the proposed project, and identification of
- 43 construction practices, monitoring programs and other mitigation measures

- 1 necessary. A bibliography of scientific citations shall be included as
2 necessary.
- 3 3. The geotechnical report shall include a certification from the engineer
4 preparing the report, including the engineer's professional stamp and
5 signature, stating all of the following:
- 6 a. The risk of damage from the project, both on and off site, is minimal;
7 b. The project will not materially increase the risk of occurrence of the
8 hazard;
9 c. The specific measures incorporated into the design and operational
10 plan of the project to eliminate or reduce the risk of damage due to the
11 hazard; and
12 d. Mitigation of adverse site conditions including slope stabilization
13 measures and seismically unstable soils, if appropriate.
- 14 4. All mitigation measures, construction techniques, recommendations and
15 technical specifications provided in the geotechnical report shall be applied
16 during the implementation of the proposal. The engineer of record shall
17 submit sealed verification at the conclusion of construction that development
18 occurred in conformance with the approved plans.

19 **14.08.590 Critical area – Wetlands**

- 20 A. Purpose and Objectives - It is the intent of the City of Soap Lake to promote public
21 health and welfare by instituting local measures to preserve naturally occurring
22 wetlands located within the shoreline jurisdiction that may be determined by site
23 specific analysis or annexed in the future. These areas may serve a variety of vital
24 functions, including, but not limited to: flood storage and conveyance, water quality
25 protection, recharge and discharge areas for groundwater, erosion control, sediment
26 control, fish and wildlife habitat, recreation, education and scientific research.
- 27 Protection measures should strive to spare identified value and function of wetlands
28 that may be in jeopardy from new development proposals. However, regulations shall
29 not prohibit uses legally existing on any parcel prior to their adoption.
- 30 The City recognizes that various legal means and levels of government already
31 address protection of wetlands. Effort will be made to avoid unnecessary duplication
32 and to promote cooperation and coordination whenever possible. The following
33 reflect the goals and policies of the community:
- 34 1. Goal. The City's wetlands will be protected to the greatest extent possible
35 because they provide important functions that protect and improve the quality
36 of life.
- 37 2. Policies.
- 38 a. Use of innovative techniques should be encouraged to protect
39 wetlands.

- 1 1. As determined necessary as provided for in this section, a wetland
2 management and mitigation plan shall be required to achieve no net loss of
3 ecological function.
- 4 2. “Vernal pools” are wetlands that are less than 4,000 square feet and meet at
5 least two of the following criteria:
 - 6 a. Its only source of water is rainfall or snowmelt from a small
7 contributing basin and has no groundwater input.
 - 8 b. Wetland plants are typically present only in the spring and the summer
9 vegetation is typically upland annuals.
 - 10 c. The soils in the wetland are shallow (less than 30 cm or one foot deep)
11 and are underlain by an impermeable layer such as basalt or clay.
 - 12 d. Surface water is present for less than 120 days during the wet season.
 - 13 e. Vernal pools that are both near other aquatic resources and relatively
14 undisturbed during February and March are considered Category 2
15 wetlands.
- 16 3. Wetland management and mitigation plans shall be prepared by a professional
17 wetland scientist with sufficient experience as a wetlands professional
18 including delineating wetlands using the state or federal manuals, preparing
19 wetland reports, conducting function assessments and developing and
20 implementing mitigation plans.
- 21 4. The wetland management and mitigation plan shall demonstrate, when
22 implemented, that there shall be no net loss of the ecological function or
23 acreage of the wetland.
- 24 5. The wetland management and mitigation plan shall identify how impacts from
25 the proposed project shall be mitigated, as well as the necessary monitoring
26 and contingency actions for the continued maintenance of the wetland and its
27 associated buffer.
- 28 6. The wetland management and mitigation plan shall contain a report that
29 includes, but is not limited to, the following information:
 - 30 a. Location maps, regional 1:24,000 and local 1:4,800;
 - 31 b. A map or maps indicating the boundary delineation of the wetland; the
32 width and length of all existing and proposed structures, utilities,
33 roads, easements; wastewater and stormwater facilities; adjacent land
34 uses, zoning districts and comprehensive plan designations;
 - 35 c. A description of the proposed project including the nature, density and
36 intensity of the proposed development and the associated grading,
37 structures, utilities, stormwater facilities, etc., in sufficient detail to
38 allow analysis of such land use change upon the identified wetland;

- 1 d. A detailed description of vegetative, faunal and hydrologic conditions,
2 soil and substrate characteristics, and topographic features within and
3 surrounding the wetland;
- 4 e. A detailed description of vegetative, faunal and hydrologic conditions,
5 soil and substrate characteristics, and topographic features within any
6 compensation site;
- 7 f. A detailed description of the proposed project's effect on the wetland,
8 and a discussion of any federal, state or local management
9 recommendations which have been developed for the area;
- 10 g. A discussion of the following mitigation alternatives as they relate to
11 the proposal. The mitigation alternatives shall be proposed in a manner
12 that considers the following in order of priority from (i) through (iv):
 - 13 i. Avoiding the impact altogether by not taking a certain action or
14 parts of an action;
 - 15 ii. Minimizing impacts by limiting the degree or magnitude of the
16 action and its implementation, by using appropriate
17 technology, or by taking affirmative steps to avoid or reduce
18 impacts;
 - 19 iii. Rectifying the impact by repairing, rehabilitating or restoring
20 the affected environment;
 - 21 iv. Compensating for the impact by replacing, enhancing or
22 providing substitute resources or environments;
- 23 h. A plan by the applicant which explains how any adverse impacts
24 created by the proposed development will be mitigated, including
25 without limitation the following techniques:
 - 26 i. Establishment of buffer zones;
 - 27 ii. Preservation of critically important plants and trees;
 - 28 iii. Limitation of access to the wetland area;
 - 29 iv. Seasonal restriction of construction activities;
 - 30 v. Establishment of a monitoring program within the plan;
 - 31 vi. Drainage and erosion control techniques;
- 32 i. A detailed discussion of ongoing management practices which will
33 protect the wetland after the project site has been fully developed,
34 including proposed monitoring, contingency, maintenance and surety
35 programs for the time period necessary to establish that the
36 performance standards have been met, but for not less than five years;
- 37 j. All reports will be provided in an electronic format (word processor)
38 and all geographic entities (maps, etc.) will be provided in a geocoded
39 format for use in GIS systems (ArcView, MapInfo, AutoCAD, etc.).

7. Mitigation ratios shall be used when impacts to wetlands cannot be avoided.
The mitigation ratios by wetland type are as follows:

Table 14.08.600 (D)(7): Mitigation ratios for eastern Washington

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

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

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

Reference:

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

8. Wetlands Enhancement as Mitigation.

- 1 a. Impacts to wetlands may be mitigated by enhancement of existing
 2 wetlands and must be accomplished in a manner consistent with the
 3 requirements of SLMC 14.08.630, Mitigation. Applicants proposing to
 4 enhance wetland must produce a critical area report that identifies how
 5 enhancement will increase the functions of the wetland and how this
 6 increase will adequately mitigate for the loss of wetland area and
 7 function at the impact site.
- 8 E. Management Recommendations and Standards. The following management
 9 recommendations and standards will apply to development proposals determined to
 10 be located within wetland areas, as defined and described herein:
- 11 1. Wetlands shall be protected, based on their quality established from the rating
 12 system, and from alterations which may create adverse impacts. The greatest
 13 protection shall be provided to Category I and II wetlands.
- 14 2. Alteration shall not mean best management practices for agriculture which by
 15 design could not be considered a change in land use, including but not limited
 16 to improved chemical application or practice, which are intended to improve
 17 crop production and enhance areas adjacent to wetlands.
- 18 3. Activities conducted by public agencies to control mosquitoes in compliance
 19 with state and federal laws shall be exempt from City wetland regulations.
- 20 4. Activities and construction necessary on an emergency basis to prevent threats
 21 to public health and safety may be allowed if reasonable justification warrants
 22 cause for a waiver.
- 23 5. The City will coordinate wetland preservation strategy and effort with
 24 appropriate state and federal agencies, and private conservation organizations,
 25 to take advantage of both technical and financial assistance, and to avoid
 26 duplication of efforts.
- 27 6. A wetland buffer area of adequate width shall be maintained between
 28 wetlands and adjacent new development to protect the function and integrity
 29 of wetlands. The ultimate width of the established buffer shall be dependent
 30 upon functioning and sensitivity of the wetland; characteristics of the existing
 31 buffer, potential impacts associated with adjacent and proposed land use, and
 32 other existing regulation which may control the proposed activity. Extension
 33 or reduction in required buffer widths may be imposed according to these
 34 factors. Minimum buffer widths are:

35 **Table 14.08.600 (E)(6). Wetland Buffers**

	Categories:			
Land Use Intensity	I	II	III	IV
Major Development	250 ft	200 ft	150 ft	50 ft

- 36
- 37 7. Wetland buffers shall be retained in their natural conditions unless change in a
 38 portion of a wetland buffer is proposed that will not have an adverse impact

- 1 on the wetland, or adequate mitigation cannot or will not be provided by
2 natural conditions. Integrity of the wetland shall be maintained as a function
3 of the buffer.
- 4 8. Buffer Averaging.
- 5 a. Standard buffer widths may be modified by the Shoreline
6 Administrator for an averaging to improve wetland protection may be
7 permitted when all of the following conditions are met:
- 8 i. The wetland has significant differences in characteristics that
9 affect its habitat functions, such as a wetland with a forested
10 component adjacent to a degraded emergent component or a
11 “dual-rated” wetland with a Category I area adjacent to a lower
12 rated area.
- 13 ii. The buffer is increased adjacent to the higher-functioning area
14 of habitat or more sensitive portion of the wetland and
15 decreased adjacent to the lower-functioning or less sensitive
16 portion.
- 17 iii. The total area of the buffer after averaging is equal to the area
18 required without averaging.
- 19 iv. The buffer at its narrowest point is never less than three-
20 quarters of the required width and/or 25 feet.
- 21 b. Averaging to allow reasonable use of a parcel may be permitted when
22 all of the following are met:
- 23 i. There are no feasible alternatives to the site design that could
24 be accomplished without buffer averaging.
- 25 ii. The averaged buffer will not result in degradation of the
26 wetland’s functions and values as demonstrated by a report
27 from a qualified wetland professional.
- 28 iii. The total buffer area after averaging is equal to the area
29 required without averaging.
- 30 iv. The buffer at its narrowest point is never less than three-
31 quarters of the required width.
- 32 9. Activities or uses which would strip the shoreline of vegetative cover, cause
33 substantial erosion or sedimentation or affect aquatic life, should be
34 prohibited.
- 35 10. Construction of structural shoreline stabilization and flood control works
36 should be minimized. New developments should be designed to preclude need
37 for such works and should be compatible with shoreline characteristics and
38 limitations.
- 39 11. Wetland alteration shall not cause loss of ecological function or significant
40 adverse impact to wetland ecosystems or surrounding areas.

- 1 12. Encourage development of an education program promoting the value of
- 2 wetlands, and that promotes private stewardship of wetland areas.

3 **14.08.600 Most Current Scientific and Technical Information**

- 4 A. Critical area reports and decisions to alter critical areas shall rely on the most current,
- 5 accurate, and complete scientific and technical information available to protect the
- 6 functions and values of critical areas and must give special consideration to
- 7 conservation or protection measures necessary to preserve or enhance anadromous
- 8 fish and their habitat. The use of complete scientific and technical information shall
- 9 be consistent with requirements established in WAC 173-26-201(2)(a).

10 **14.08.610 Development Standards**

11 Within critical areas in the shoreline jurisdiction, the City shall prohibit soil excavation, grading,
12 removal of native vegetation species, draining, intentional burning, planting of invasive or
13 nuisance vegetation, placement of structures and new construction on critical areas unless
14 otherwise authorized in this chapter.

- 15 A. Applicability. These development standards apply to uses on critical areas and within
- 16 buffers unless otherwise exempted in this chapter.

- 17 B. Performance Standards. In order to approve application for development on lands
- 18 subject to this chapter, the Shoreline Administrator shall find that the following
- 19 standards have been met:

- 20 1. All reasonable alternatives for locating the development activity in such a way
- 21 so as to avoid critical areas have been considered and the development activity
- 22 will be located in the least environmentally sensitive area as practicable and
- 23 the purpose of this chapter is fulfilled.

- 24 2. The City has approved the vegetation removal methods and the removal of
- 25 native plants has been avoided, to the extent practicable.

- 26 3. All adverse impacts to all affected critical areas and buffers are either avoided
- 27 or fully mitigated to achieve no net loss.

- 28 4. The plan minimizes cuts and fills.

- 29 5. The Shoreline Administrator has reviewed and approved an erosion control
- 30 plan, grading plan, and vegetation removal and replanting plan prior to
- 31 construction activity.

- 32 6. All activities have received applicable state and federal permits, and comply
- 33 with SEPA requirements if the “lead agency” makes a threshold determination
- 34 of significance (DS), or a mitigated determination of nonsignificance
- 35 (MDNS).

- 36 7. Compliance with this chapter does not constitute compliance with state and
- 37 federal environmental standards. The applicant shall be responsible for
- 38 demonstrating such compliance.

- 39 C. Review Process.

- 1 1. Applications to develop on critical areas or their buffers shall be subject to
- 2 review if, within a one-year period, the cumulative impact on critical areas is:
- 3 a. Disturbance of less than 10 cubic feet of soil;
- 4 b. An activity, the fair market cost of which is less than \$500.00; or
- 5 c. The activity involves less than 1,000 square feet of critical areas.
- 6 d. SEPA Review. On a case-by-case basis, the responsible official may
- 7 issue a determination of nonsignificance (DNS) if:
- 8 i. The application for development review contains all requested
- 9 information, including reports, maps and other documents
- 10 relevant to the proposed activity; and
- 11 ii. The proposed activity complies with all applicable
- 12 development review and performance standards; and
- 13 iii. Compliance with all applicable development standards and
- 14 performance standards is made a binding condition of land use
- 15 approval.

16 **14.08.620 Mitigation**

- 17 A. Approval. City approval of a mitigation plan is a prerequisite for approval of any
- 18 development activities in critical areas.
- 19 1. The applicant shall submit a written request describing the extent and nature
- 20 of the proposed development activity on critical areas and buffers. The request
- 21 shall include boundary locations of all critical areas and attendant buffers.
- 22 2. The application for development shall include a mitigation plan prepared in
- 23 compliance with this section. Mitigation plans shall be developed utilizing the
- 24 guidelines found in Wetland Mitigation in Washington State, Part 1, Agency
- 25 Policies and Guidance (version 1, Publication No. 06-06-011a, March 2006)
- 26 and Wetland Mitigation in Washington State, Part 2, Developing Mitigation
- 27 Plans (Version 1, Publication No. 06-06-011b, March 2006).
- 28 3. The City may require the applicant to prepare special reports evaluating
- 29 potential adverse impacts upon critical areas and potential mitigation
- 30 measures as part of the land use application process. These reports may
- 31 include, but are not limited to, the following: storm water management plan;
- 32 hydrology, geology, and soils report; grading and erosion control plan; native
- 33 vegetation report; fish and wildlife assessment and impact report; water
- 34 quality report; wetlands delineation; and other reports determined necessary
- 35 by the City.
- 36 4. The City shall consult with state and federal resource management agencies
- 37 and, in order to protect wildlife habitat or natural resource values, shall attach
- 38 such conditions as may be necessary to effectively mitigate identified adverse
- 39 impacts of the proposed development activity.

- 1 5. The City may request third party “peer review” of an application by qualified
2 professionals and may incorporate recommendations from such third party
3 reports in findings approving or denying the application.
- 4 6. All reports recommending mitigation shall include provisions for monitoring
5 of programs and replacement of improvements, on an annual basis, consistent
6 with report recommendations and at one-, three-, five- and seven-year
7 intervals.
- 8 7. The City may require replacement mitigation to be established and functional
9 prior to project construction.
- 10 B. No Net Loss.
- 11 1. Mitigation efforts, when allowed, shall ensure that development activity does
12 not yield a net loss of the area or function of the critical areas. No net loss
13 shall be measured by:
 - 14 a. Avoidance or mitigation of adverse impacts to fish life; or
 - 15 b. Avoidance or mitigation of net loss of habitat functions necessary to
16 sustain fish life; or
 - 17 c. Avoidance or mitigation of loss of area by habitat type.
- 18 2. Mitigation measures shall be applied in the following sequence of steps listed
19 in order of priority, to achieve no net loss:
 - 20 a. Avoiding the impact altogether by not taking a certain action or parts
21 of an action;
 - 22 b. Minimizing impacts by limiting the degree or magnitude of the action
23 and its implementation by using appropriate technology or by taking
24 affirmative steps to avoid or reduce impacts;
 - 25 c. Rectifying the impact by repairing, rehabilitating, or restoring the
26 affected environment;
 - 27 d. Reducing or eliminating the impact over time by preservation and
28 maintenance operations;
 - 29 e. Compensating for the impact by replacing, enhancing, or providing
30 substitute resources or environments; and
 - 31 f. Monitoring the impact and the compensation projects and taking
32 appropriate corrective measures.
- 33 3. Mitigation to achieve no net loss should benefit those organisms being
34 impacted.
- 35 4. Where development results in a loss of wetland area, the mitigation plan shall
36 demonstrate that wetland area is replaced consistent with the ratios described
37 in Table 14.08.200 (D)(7). The created or enhanced wetland shall be, acre for
38 acre, of equal or greater biological values, including habitat value, and with
39 equivalent hydrological values including storage capacity.

- 1 C. Mitigation Plan. A mitigation plan shall provide for the design, implementation,
2 maintenance, and monitoring of mitigation measures. A mitigation plan shall include
3 but is not limited to the following:
- 4 1. Methods and techniques to be used to mitigate impacts to critical areas;
 - 5 2. Explanation of methods and techniques, such as construction practices to be
6 used to implement the identified mitigation methods;
 - 7 3. Methods and techniques for monitoring said mitigation and a proposed
8 timeframe for such monitoring. Monitoring periods shall be a minimum of
9 five years and shall be 10 or more years for scrub-shrub communities and
10 other areas where rate of growth slows the development of adequate cover.

11 **14.08.630 Bonds to Ensure Mitigation, Maintenance, and Monitoring**

- 12 A. When mitigation required pursuant to a development proposal is not completed prior
13 to the City final permit approval, such as final plat approval or final building
14 inspection, the City shall require the applicant to post a performance bond or other
15 security in a form and amount deemed acceptable by the City. If the development
16 proposal is subject to mitigation, the applicant shall post a mitigation bond or other
17 security in a form and amount deemed acceptable by the City to ensure mitigation is
18 fully functional.
- 19 B. The bond shall be in the amount of 125 percent of the estimated cost of the
20 uncompleted actions or the estimated cost of restoring the functions and values of the
21 critical area that are at risk, whichever is greater, and the cost of maintenance and
22 monitoring for a 10-year period.
- 23 C. The bond shall be in the form of an assignment of savings account, or an irrevocable
24 letter of credit guaranteed by an acceptable financial institution with terms and
25 conditions acceptable to the City attorney or other method acceptable to the Shoreline
26 Administrator.
- 27 D. Bonds or other security authorized by this section shall remain in effect until the City
28 determines, in writing, that the standards bonded for have been met. Bonds or other
29 security shall be held by the City for a minimum of 10 years to ensure that the
30 required mitigation has been fully implemented and demonstrated to function, and
31 may be held for longer periods when necessary.
- 32 E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an
33 applicant or violator to complete required mitigation, maintenance, monitoring, or
34 restoration.
- 35 F. Public development proposals shall be relieved from having to comply with the
36 bonding requirements of this section if public funds have previously been committed
37 for mitigation, maintenance, monitoring, or restoration.
- 38 G. Any failure to satisfy critical area requirements established by law or condition
39 including, but not limited to, the failure to provide a monitoring report within 30 days
40 after it is due or comply with other provisions of an approved mitigation plan shall
41 constitute a default, and the City may demand payment of any financial guarantees or
42 require other action authorized by the City code or any other law.

1 H. Any funds recovered pursuant to this section shall be used to complete the required
2 mitigation, maintenance or monitoring.

3 **14.08.640 Critical Area Inspections**

4 A. Reasonable access to the site shall be provided to the City, state, and federal agency
5 review staff for the purpose of inspections during any proposal review, restoration,
6 emergency action, or monitoring period.

7

8 **Article VI. Existing Uses, Structures and Lots**

9 **14.08.700 Applicability**

10 A. Applicability

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

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

19 a. The requirements of the International Building and Fire Codes; or

20 b. The provisions of the SMP beyond the specific nonconformance
21 addressed by this chapter.

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

25 4. Any nonconformance that is brought into conformance for any period of time
26 shall forfeit status as nonconformance, except as specified in Section
27 14.08.710, Nonconforming Uses.

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

31 a. Local agency permit;

32 b. Orthophoto, aerial photo or planimetric mapping recognized as
33 legitimate by the agency; or

34 c. Tax record.

35 **14.08.710 Nonconforming Uses**

36 A. If, at the effective date of the SMP and any amendment thereto, a lawful use of land
37 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 1. 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 2. 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 3. If any nonconforming use of land ceases for any reason for a period of one
12 year during any two-year period, any subsequent use of such land shall
13 conform to the regulations specified by this SMP for the use environment in
14 which such land is located.
- 15 4. A structure which is being or has been used for a nonconforming use may be
16 used for a different nonconforming use only upon a finding that:
 - 17 a. No reasonable alternative conforming use is practical;
 - 18 b. The proposed use is equally or more appropriate to the shoreline
19 environment than the existing nonconforming use, and is at least as
20 consistent with the policies and provisions of the act and the SMP;
 - 21 c. Such a change of use shall be subject to conditional use permit
22 approval. Conditions may be attached to the permit as are deemed
23 necessary to assure compliance with the above findings, the
24 requirements of the master program and the Act and to assure that the
25 use will not become a nuisance or a hazard.

26 **14.08.720 Nonconforming Structures**

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

- 1 upland of an existing levee, the applicant’s critical areas report may
2 justify a smaller ratio provided that the study demonstrates no net loss
3 of ecological functions.
- 4 c. Greater expansions or alterations of a nonconforming structure require
5 a Shoreline Variance.
- 6 3. All expansion, extension, maintenance or repair activities of nonconforming
7 structures or improvements shall be consistent with all other provisions of this
8 Program, provided the cumulative cost of such maintenance or repair within
9 any 180-day period shall not exceed 50 percent of the assessed valuation of
10 such building, structure, or land (as applicable) at the time such maintenance
11 is completed. Replacement of the residential structure shall also be consistent
12 with the master program, including requirements for no net loss of shoreline
13 ecological functions.
- 14 4. When damaged, a nonconforming structure may be restored to the
15 configuration existing immediately prior to the time that the structure was
16 damaged, provided that:
- 17 a. The structure is damaged to an extent not exceeding seventy-five
18 percent of the replacement cost of the original development.
- 19 b. The applicant applies for permits needed to restore the development
20 within six months of the date the damage occurred.
- 21 c. All permits are obtained and reconstruction is completed within 24
22 months of the date of damage, unless an extension of time is granted
23 by the Shoreline Administrator upon written petition substantiating to
24 the satisfaction of the Administrator due cause for such extension.
- 25 d. The degree of the nonconforming use, building or structure is not
26 increased.
- 27 e. Nothing in this section will prohibit vertical expansion up to the height
28 allowed in the applicable use environment, provided all other
29 applicable requirements of the City of Soap Lake development
30 regulations are met.
- 31 5. Upkeep, repairs and maintenance of a nonconforming structure or other
32 improvement shall be permitted.
- 33 6. Should such structure or other improvement be moved for any reason for any
34 distance whatever, it shall thereafter conform to the regulations for the use
35 environment in which it is located. Conformance shall be required when:
- 36 a. A change of use is proposed;
- 37 b. The use is terminated or discontinued for more than one year, or the
38 structure(s) that houses the use is vacated for more than one year; or
- 39 c. The structure(s) or activity that occurs on the land in which the use is
40 conducted is proposed for relocation.

- 1 d. Residential structures and appurtenant structures that were legally
- 2 established and are used for a conforming use, but that do not meet
- 3 standards for the following shall be considered a conforming structure:
- 4 setbacks, buffers, or yards; area; bulk; height; or density.
- 5 7. For purposes of this section, "appurtenant structures" means garages, sheds,
- 6 and other legally established structures. "Appurtenant structures" does not
- 7 include bulkheads and other shoreline modifications or over-water structures.

8

9 **Article VII. Administration and Enforcement**

10 **14.08.800 Roles and Responsibilities**

11 A. Shoreline Administrator

- 12 1. The City of Soap Lake Zoning Administrator or his/her designee shall serve as
- 13 the Shoreline Administrator, and in the case of a Shoreline Substantial
- 14 Development Permit (SDP) to grant or deny the permit. The administrator
- 15 shall administer the shoreline permit and notification systems, and shall be
- 16 responsible for coordinating the administration of shoreline regulations with
- 17 zoning enforcement, building permits, and all other regulations regulating
- 18 land use and development in the City.
- 19 2. The Shoreline Administrator or his/her designee shall be familiar with
- 20 regulatory measures pertaining to shorelines and their use, and, within the
- 21 limits of his or her authority, shall cooperate in the administration of these
- 22 measures. Permits issued under the provisions of this shoreline regulation
- 23 shall be coordinated with other land use and development regulatory measures
- 24 of the City. The Shoreline Administrator shall establish procedures that advise
- 25 all parties seeking building permits or other development authorization of the
- 26 need to consider possible shoreline applications. It is the intent of the City,
- 27 consistent with its regulatory obligations, to simplify and facilitate the
- 28 processing of Shoreline Substantial Development Permits.
- 29 3. The Shoreline Administrator or his/her designee shall assure that proposed
- 30 regulatory or administrative actions do not unconstitutionally infringe upon
- 31 private property rights. Shoreline goals and policies should be pursued
- 32 through the regulation of development of private property only to an extent
- 33 that is consistent with all relevant constitutional and other legal limitations
- 34 (where applicable, statutory limitations such as those contained in chapter
- 35 82.02 RCW and RCW 43.21C.060) on the regulation of private property.
- 36 4. The Shoreline Administrator shall apply Article VII, Administration and
- 37 Enforcement, and Article V, Critical Areas, for shoreline critical areas.

38 B. Hearing Examiner

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

- 1 2. The Hearing Examiner may grant or deny Shoreline Variances and Shoreline
2 Conditional Use Permits, following an open record hearing.
- 3 C. City Council. The City Council is vested with authority to:
- 4 1. Initiate an amendment to this SMP according to the procedures prescribed in
5 WAC 173-26-100.
- 6 2. Adopt all amendments to this SMP. Substantive amendments shall become
7 effective immediately upon adoption by Ecology.

8 **14.08.810 Interpretation**

- 9 A. Under the administrative provisions, the Shoreline Administrator shall have authority
10 to interpret this SMP when such interpretation is clearly consistent with the goals and
11 policies of this SMP and the Act.
- 12 B. The City shall consult with Ecology if formal written interpretations are developed as
13 a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master
14 Program to ensure that any are consistent with the purpose and intent of Chapter
15 90.58 and 173-26 WAC.

16 **14.08.820 Statutory Noticing Requirements**

- 17 A. At a minimum the City shall provide notice in accordance with WAC 173.27-110,
18 and may provide for additional noticing requirements

19 **14.08.830 Application Requirements**

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

34 **14.08.840 Shoreline Substantial Development Permits**

- 35 A. A Shoreline Substantial Development Permit shall be required for all development of
36 shorelines, unless the proposal is specifically exempted per Section 14.08.870.
37 Shoreline Substantial Development permits shall be processed as set forth in Section
38 14.08.900 of this Program and SLMC Section 18.09.020, Planning agency reviews
39 and decisions.

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

17 **14.08.850 Shoreline Conditional Use Permits**

- 18 A. Uses specifically classified or set forth in this SMP as conditional uses shall be
- 19 subject to review and condition by the Shoreline Administrator and by Ecology.
- 20 Applications for a Shoreline Conditional Use Permit shall be processed according to
- 21 SLMV Section 18.03.050 and Chapter 2.72, Hearing Examiner..
- 22 B. Other uses which are not classified or listed or set forth in this SMP may be
- 23 authorized as conditional uses provided the applicant can demonstrate consistency
- 24 with the requirements of this Section and the requirements for conditional uses
- 25 contained in this SMP.
- 26 C. Uses which are specifically prohibited by this SMP may not be authorized as a
- 27 conditional use.
- 28 D. Review Criteria for CUP. Uses which are classified or set forth in the applicable
- 29 master program as conditional uses may be authorized provided that the applicant
- 30 demonstrates all of the following:
 - 31 1. That the proposed use is consistent with the policies of RCW 90.58.020 and
 - 32 the master program;
 - 33 2. That the proposed use will not interfere with the normal public use of public
 - 34 shorelines;
 - 35 3. That the proposed use of the site and design of the project is compatible with
 - 36 other authorized uses within the area and with uses planned for the area under
 - 37 the comprehensive plan and shoreline master program;
 - 38 4. That the proposed use will cause no significant adverse effects to the shoreline
 - 39 environment in which it is to be located; and
 - 40 5. That the public interest suffers no substantial detrimental effect.

- 1 E. In the granting of all conditional use permits, consideration shall be given to the
2 cumulative impact of additional requests for like actions in the area. For example, if
3 conditional use permits were granted for other developments in the area where similar
4 circumstances exist, the total of the conditional uses shall also remain consistent with
5 the policies of RCW 90.58.020 and shall not produce substantial adverse effects to
6 the shoreline environment.
- 7 F. In authorizing a conditional use, special conditions may be attached to the permit by
8 the City or Ecology to prevent undesirable effects of the proposed use and/or to
9 assure consistency of the project with the SMA and this SMP.
- 10 G. Nothing shall interfere with the City's ability to require compliance with all other
11 applicable plans and laws.

12 **14.08.860 Shoreline Variance Permits**

- 13 A. The purpose of a variance is to grant relief to specific bulk or dimensional
14 requirements set forth in this SMP where there are extraordinary or unique
15 circumstances relating to the property such that the strict implementation of this SMP
16 would impose unnecessary hardships on the applicant or thwart the policies set forth
17 in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited.
18 Applications for Shoreline Variance Permits shall be processed according to SLMC
19 Section 18.03.050 and Chapter 2.72, Hearing Examiner.
- 20 B. Review Criteria
 - 21 1. Variance permits should be granted in circumstances where denial of the
22 permit would result in a thwarting of the policy enumerated in RCW
23 90.58.020. In all instances the applicant must demonstrate that extraordinary
24 circumstances shall be shown and the public interest shall suffer no substantial
25 detrimental effect.
 - 26 2. Variance permits for development and/or uses that will be located landward of
27 the OHWM, as defined in RCW 90.58.030(2)(b), and/or landward of any
28 wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the
29 applicant can demonstrate all of the following:
 - 30 a. That the strict application of the bulk, dimensional or performance
31 standards set forth in the SMP precludes, or significantly interferes
32 with, reasonable use of the property;
 - 33 b. That the hardship described in criterion 14.08.860 (B)(2) (a) of this
34 subsection is specifically related to the property, and is the result of
35 unique conditions such as irregular lot shape, size, or natural features
36 and the application of the SMP, and not, for example, from deed
37 restrictions or the applicant's own actions;
 - 38 c. That the design of the project is compatible with other authorized uses
39 within the area and with uses planned for the area under the
40 comprehensive plan and SMP and will not cause adverse impacts on
41 the shoreline environment;

- 1 d. That the variance will not constitute a grant of special privilege not
- 2 enjoyed by the other properties in the area;
- 3 e. That the variance requested is the minimum necessary to afford relief;
- 4 and
- 5 f. That the public interest will suffer no substantial detrimental effect.
- 6 3. Variance permits for development and/or uses that will be located waterward
- 7 of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as
- 8 defined in RCW 90.58.030(2)(h), may be authorized provided the applicant
- 9 can demonstrate all of the following:
- 10 a. That the strict application of the bulk, dimensional or performance
- 11 standards set forth in the applicable master program precludes all
- 12 reasonable use of the property;
- 13 b. That the proposal is consistent with the criteria established under
- 14 Section 14.08.80 (B)(2) (a)-(f) above can be met; and
- 15 c. That the public rights of navigation and use of the shorelines will not
- 16 be adversely affected.
- 17 4. In the granting of all variance permits, consideration shall be given to the
- 18 cumulative impact of additional requests for like actions in the area. For
- 19 example if variances were granted to other developments and/or uses in the
- 20 area where similar circumstances exist the total of the variances shall also
- 21 remain consistent with the policies of RCW 90.58.020 and shall not cause
- 22 substantial adverse effects to the shoreline environment.

23 **14.08.870 Exemptions from Shoreline Substantial Development Permits**

- 24 A. An exemption from the Shoreline Substantial Development Permit process is not an
- 25 exemption from compliance with the SMA or this SMP, or from any other regulatory
- 26 requirements. All proposed uses, activities, or development occurring within
- 27 shoreline jurisdiction must conform to the intent and requirements of Chapter 90.58
- 28 RCW, the SMA, and this SMP whether or not a permit or other form of authorization
- 29 is required.
- 30 1. Letters of exemption shall be issued by the City when an exemption applies or
- 31 when a letter of exemption is required by the provisions of WAC 173-27-050
- 32 and as follows:
- 33 a. Any person claiming exemption from the substantial development
- 34 permit requirements shall make an application to the Shoreline
- 35 Administrator for such an exemption in the manner prescribed by the
- 36 Shoreline Administrator, except that no written statement of
- 37 exemption is required for emergency development pursuant to WAC
- 38 173-27-040(2)(d).
- 39 b. The Shoreline Administrator is authorized to grant or deny requests for
- 40 statements of exemption from the shoreline substantial development
- 41 permit requirement for uses and developments within shorelines that

1 are specifically listed in Section 40.460.230(B). The statement shall be
2 in writing and shall indicate the specific exemption of this Program
3 that is being applied to the development, and shall provide a summary
4 of the Shoreline Administrator's analysis of the consistency of the
5 project with this Program and the Act. The letter shall be sent to the
6 applicant and maintained on file in the offices of the Shoreline
7 Administrator.

- 8 2. Statements of exemption may contain conditions and/or mitigating measures
9 of approval to achieve consistency and compliance with the provisions of this
10 Program and the Act
- 11 3. A denial of an exemption shall be in writing and shall identify the reason(s)
12 for the denial. The Shoreline Administrator's decision on a statement of
13 exemption is not subject to administrative appeal.
- 14 4. Exempt activities shall not be conducted until a statement of exemption has
15 been obtained from the Shoreline Administrator.

16 B. Interpretations of Exemptions

- 17 1. Exemptions shall be construed narrowly. Only those developments that meet
18 the precise terms of one or more of the listed exemptions may be granted
19 exemption from the Shoreline Substantial Development Permit process.
- 20 2. A development or use that is listed as a conditional use pursuant to this SMP
21 or is an unlisted use, must obtain a Shoreline Conditional Use Permit even
22 though the development or use does not require a Shoreline Substantial
23 Development Permit. When a development or use is proposed that does not
24 comply with the bulk, dimensional and performance standards of this SMP,
25 such development or use can only be authorized by approval of a Shoreline
26 Variance.
- 27 3. The burden of proof that a development or use is exempt from the permit
28 process is on the applicant.
- 29 4. If any part of a proposed development is not eligible for exemption, then a
30 Shoreline Substantial Development Permit is required for the entire proposed
31 development project.
- 32 5. The City may attach conditions to the approval of exempted developments
33 and/or uses as necessary to assure consistency of the project with the SMA
34 and this SMP. Additionally, nothing shall interfere with each responsible local
35 government's ability to require compliance with all other applicable laws and
36 plans.

37 C. The City shall exempt from the Shoreline Substantial Development Permit
38 requirement the shoreline developments listed below:

- 39 1. Any development of which the total cost or fair market value does not exceed
40 six thousand, four hundred and sixteen dollars (\$6,416.00) or as adjusted by
41 the State Office of Financial Management, if such development does not
42 materially interfere with the normal public use of the water or shorelines of

1 the state. For purposes of determining whether or not a permit is required, the
2 total cost or fair market value shall be based on the value of development that
3 is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c).
4 The total cost or fair market value of the development shall include the fair
5 market value of any donated, contributed, or found labor, equipment or
6 materials.

7 2. Normal maintenance or repair of existing legally-established structures or
8 developments, including damage by accident, fire, or elements. Replacement
9 of a structure or development may be authorized as repair where such
10 replacement is the common method of repair for the type of structure or
11 development and the replacement structure or development is comparable to
12 the original structure or development including but not limited to its size,
13 shape, configuration, location, and external appearance and the replacement
14 does not cause substantial adverse effects to shoreline resources or
15 environment.

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

35 4. Emergency construction necessary to protect property from damage by the
36 elements. An "emergency" is an unanticipated and imminent threat to public
37 health, safety, or the environment that requires immediate action within a time
38 too short to allow full compliance with this chapter. Emergency construction
39 does not include development of new permanent protective structures where
40 none previously existed. Where new protective structures are deemed by the
41 Shoreline Administrator to be the appropriate means to address the emergency
42 situation, upon abatement of the emergency situation the new structure shall
43 be removed or any permit that would have been required, absent an
44 emergency, pursuant to RCW 90.58 these regulations, or this Program, shall
45 be obtained. All emergency construction shall be consistent with the policies

- 1 and requirements of this chapter, RCW 90.58, and this Program. As a general
2 matter, flooding or other seasonal events that can be anticipated and may
3 occur but that are not imminent are not an emergency.
- 4 5. Construction on shorelands by an owner, lessee, or contract purchaser of a
5 single-family residence or appurtenance for their own use or for the use of
6 their family, which residence does not exceed a height of thirty-five (35) feet
7 above average grade level, and which meets all requirements of the City, other
8 than requirements imposed pursuant to RCW 90.58. Construction authorized
9 under this exemption shall be located landward of the ordinary high water
10 mark.
- 11 6. Operation, maintenance, or construction of canals, waterways, drains,
12 reservoirs, or other facilities that now exist or are hereafter created or
13 developed as a part of an irrigation system , including return flow and
14 artificially stored ground water from the irrigation of lands.
- 15 7. The marking of property lines or corners on state-owned lands, when such
16 marking does not significantly interfere with normal public use of the surface
17 of the water.
- 18 8. Any project with a certification from the governor pursuant to RCW 80.50
19 (certification from the State Energy Facility Site Evaluation Council).
- 20 9. Site exploration and investigation activities that are prerequisite to preparation
21 of an application for development authorization under this chapter, if:
- 22 a. The activity does not interfere with the normal public use of surface
23 waters;
- 24 b. The activity will have no significant adverse impact on the
25 environment including but not limited to fish, wildlife, fish or wildlife
26 habitat, water quality, and aesthetic values;
- 27 c. The activity does not involve the installation of any structure, and
28 upon completion of the activity the vegetation and land configuration
29 of the site are restored to conditions existing before the activity; and
- 30 d. A private entity seeking development authorization under this section
31 first posts a performance bond or provides other evidence of financial
32 responsibility to the local jurisdiction to assure that the site is restored
33 to preexisting conditions.
- 34 10. The process of removing or controlling aquatic noxious weeds, as defined in
35 RCW 17.26.020, through the use of an herbicide or other treatment methods
36 applicable to weed control published by the Departments of Agriculture or
37 Ecology jointly with other state agencies under RCW 43.21C.
- 38 11. Watershed restoration projects as defined in RCW 89.08.460.
- 39 12. A public or private project that is designed to improve fish or wildlife habitat
40 or fish passage when all of the following apply:
- 41 a. The project has been approved by WDFW;

- 1 b. The project has received hydraulic project approval (HPA) by WDFW
- 2 pursuant to RCW 77.55; and
- 3 c. The City has determined that the project is substantially consistent
- 4 with the local shoreline master program. The City shall make such
- 5 determination in a timely manner and provide it by letter to the
- 6 applicant.
- 7 13. Fish habitat enhancement projects that conform to the provisions of RCW
- 8 77.55.181 are determined to be consistent with local shoreline master
- 9 programs.
- 10 14. Any person conducting a remedial action at a facility pursuant to a consent
- 11 decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology
- 12 when it conducts a remedial action under RCW 70.105D.
- 13 15. Other than conversions to non-forest land use, forest practices regulated under
- 14 RCW 76.09 are not subject to additional regulations under the Act or this
- 15 Program (90.58.030(2)(d)(ii)).

16 **14.08.880 Duration of Permits**

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

18 **14.08.890 Initiation of Development**

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

35 **14.08.900 Review Process**

- 36 A. After the City's approval of a Shoreline Conditional Use or Variance Permit, the City
- 37 shall submit the permit to the Department of Ecology for approval, approval with
- 38 conditions, or denial. Ecology shall render and transmit to the City and the applicant
- 39 its final decision approving, approving with conditions, or disapproving the permit
- 40 within thirty days of the date of submittal by the City pursuant to WAC 173-27-110.

- 1 B. The Department of Ecology shall review the complete file submitted by the City on
2 Shoreline Conditional Use or Variance Permits and any other information submitted
3 or available that is relevant to the application. Ecology shall base its determination to
4 approve, approve with conditions or deny a conditional use permit or variance on
5 consistency with the policy and provisions of the SMA and, except as provided in
6 WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.
- 7 C. The City shall provide timely notification of the Department of Ecology's final
8 decision to those interested persons having requested notification from local
9 government pursuant to WAC 173-27-130.

10 **14.08.910 Appeals**

- 11 A. Appeals of Shoreline Permit Decisions. The City of Soap Lake's decisions on
12 Shoreline permits may be appealed to the following 'bodies' in this sequence, as
13 applicable:
- 14 1. The City of Soap Lake Hearings Examiner or in accordance with SLMC
15 18.11, Appeals and 2.72, Hearing Examiner (For Substantial Development
16 Permits only).
 - 17 2. State Shorelines Hearings Board (SHB) in Tumwater
 - 18 3. SHB decisions may be appealed to superior court.
 - 19 4. Superior court decisions may be appealed to the Court of Appeals
 - 20 5. Appeals Court decisions may be appealed to the Washington Supreme Court
 - 21 6. Appeals to the SHB and courts are governed by RCW 90.58.180, RCW
22 43.21B.001, RCW 34.05 Part V, and WAC 461.08.
- 23 B. All requests for review of any final permit decisions under chapter 90.58 RCW and
24 chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180
25 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines
26 hearings board.

27 **14.08.920 Amendments to Permits**

- 28 A. A permit revision is required whenever the applicant proposes substantive changes to
29 the design, terms or conditions of a project from that which is approved in the permit.
30 Changes are substantive if they materially alter the project in a manner that relates to
31 its conformance to the terms and conditions of the permit, the SMP and/or the
32 policies and provisions of chapter 90.58 RCW. Changes which are not substantive in
33 effect do not require approval of a revision.
- 34 B. Revisions to permits shall be considered consistent with WAC 173-27-100.

35 **14.08.930 Enforcement**

- 36 A. The Act provides for a cooperative program between the City of Soap Lake and the
37 Department of Ecology to implement and enforce the provisions of the Act and this
38 Master Program. This Section provides for a variety of means of enforcement,
39 including civil and criminal penalties, orders to cease and desist, and orders to take
40 corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290,

1 173-27-300 and SLMC 18.13. The enforcement means and penalties provided herein
2 are not exclusive and may be taken or imposed in conjunction with, or in addition to,
3 any other civil enforcement actions and civil penalties, injunctive or declaratory
4 relief, criminal prosecution, actions to recover civil or criminal penalties, or any other
5 action or sanction authorized by this Section, or any other provision of the City of
6 Soap Lake Code and Land Use Code, or any other provision of state or federal law
7 and regulation.

8 B. The Shoreline Administrator, with the assistance of the City's attorney, shall have
9 authority to commence and prosecute any enforcement action authorized by this
10 section. In determining the appropriate enforcement actions to be commenced and
11 prosecuted, the Administrator shall consider the following factors:

- 12 1. The nature of the violation;
- 13 2. The extent of damage or potential future risk to the shoreline environment and
14 its ecological functions or to the public health and safety, caused by or
15 resulting from, whether directly or indirectly, the alleged violation;
- 16 3. The existence of knowledge, intent, or malice on behalf of the violator;
- 17 4. The economic benefit or advantage that accrued to the violator(s) as a result
18 of the violation; and
- 19 5. The estimated actions and costs of providing adequate mitigation, restoration,
20 rehabilitation, or enhancement, to repair or minimize any substantial adverse
21 impacts upon the shoreline environment and its ecological functions, or the
22 public health and safety.

23 C. The Shoreline Administrator may commence and prosecute enforcement action
24 jointly with the Department of Ecology. Pursuant to WAC Chapter 173-27, the
25 Department of Ecology may initiate and prosecute enforcement action separate from
26 the Shoreline Administrator.

27 **14.08.940 Cumulative Effects of Shoreline Developments**

- 28 A. The City will periodically evaluate the effectiveness of the Shoreline Master Program
29 update for achieving no net loss of shoreline ecological functions with respect to
30 shoreline permitting and exemptions in order to comply with WAC 173-26-
31 191(2)(a)(iii)(D).
- 32 B. The Shoreline Administrator will, to the extent feasible, coordinate with other
33 departments of the City or as adjacent jurisdictions, to assess cumulative effects of
34 shoreline development.

35 **14.08.950 Amendments to Shoreline Master Program**

- 36 A. Amendments to the Program shall be processed as legislative decisions pursuant to
37 WAC 173-26-110 as mentioned in this subsection. A complete submittal to the
38 Department of Ecology shall include two copies of the following, where applicable:
 - 39 1. Documentation (i.e., signed resolution or ordinance) that the proposal has
40 been approved by the local government;

- 1 2. If the proposal includes text amending a master program document of record,
2 it shall be submitted in a form that can replace or be easily incorporated within
3 the existing document.
- 4 3. Amended text shall show strikeouts for deleted text and underlining for new
5 text, clearly identifying the proposed changes. At the discretion of the
6 department, strikeouts and underlined text may not be required provided the
7 new or deleted portions of the master program are clearly identifiable;
- 8 4. Amended environment designation map(s), showing both existing and
9 proposed designations, together with corresponding boundaries described in
10 text for each change of environment. All proposals for changes in
11 environment designation and redesignation shall provide written justification
12 for such based on existing development patterns, the biophysical capabilities
13 and limitations of the shoreline being considered, and the goals and
14 aspirations of the local citizenry as reflected in the locally adopted
15 comprehensive land use plan;
- 16 5. A summary of proposed amendments together with explanatory text
17 indicating the scope and intent of the proposal, staff reports, records of the
18 hearing, and/or other materials which document the necessity for the proposed
19 changes to the master program;
- 20 6. Evidence of compliance with chapter 43.21C RCW, the State Environmental
21 Policy Act, specific to the proposal;
- 22 7. Evidence of compliance with the public notice and consultation requirements
23 of WAC 173-26-100;
- 24 8. Copies of all public, agency and tribal comments received, including a record
25 of names and addresses of interested parties involved in the local government
26 review process or, where no comments have been received, a comment to that
27 effect.
- 28 9. A copy of the master program submittal checklist completed in accordance
29 with WAC 173-26-201 \ (2)(f) and (3)(a) and (h).
- 30 10. For comprehensive master program updates, copies of the inventory and
31 characterization, use analysis, restoration plan and cumulative impacts
32 analysis.
- 33 B. Any locally approved amendments to the SMP will not become effective until
34 approved by the State Department of Ecology.

35 **14.08.960 Definitions**

- 36 A. For the purposes of this chapter, the definitions set forth in this section. Unless
37 specifically defined in this chapter, words or phrases used in this chapter shall be
38 interpreted so as to give them the meaning they have in common usage and to give
39 this chapter its most reasonable application.
- 40 1. “Active recreation” means activities that refresh or restore one’s strength,
41 spirits or vitality through physical movement or action.

- 1 2. “Aquifers” refers to groundwater-bearing geologic formations that contain
2 enough saturated permeable material to yield significant quantities of water to
3 wells. Shallow (less than 100 feet) perched (trapped on an impervious layer of
4 clay) aquifer caused from irrigation (Columbia Basin irrigation project) is not
5 considered an aquifer.
- 6 3. “Aquifer recharge” means the process of infiltration and migration by which
7 groundwater is replenished.
- 8 4. “Artificial wetlands intentionally created from nonwetland sites” are only
9 those wetlands, which upon examination using best available science, are
10 found to have all three of the following criteria:
 - 11 a. The wetland is sustained by water that has been intentionally pumped
12 or piped for irrigation or disposal and if the pumping or piped flow
13 ceased, the wetland would naturally disappear.
 - 14 b. The wetland was created by water that was intentionally applied to
15 land for irrigation, disposal, or seeped from water in reservoirs, canals,
16 drains, retention or treatment facilities.
 - 17 c. The wetland did not exist prior to the United States Bureau of
18 Reclamation Columbia Basin irrigation project.
- 19 5. “Best management practices” means conservation practices or systems of
20 practices and management measures that promote the intent of this chapter.
- 21 6. “Buffer” means an area that surrounds and protects critical area functions
22 from adverse impacts.
- 23 7. “Buffer management” means actions and practices conducted for the purpose
24 of protection and enhancement of critical areas by moderating or eliminating
25 adverse impacts from adjacent land(s) or areas to create a buffer from
26 encroachment by urban growth areas.
- 27 8. “City” means the City of Soap Lake.
- 28 9. “Council” means the council of the City of Soap Lake.
- 29 10. “Critical aquifer recharge areas (CARA)” are areas where an aquifer that is a
30 source of drinking water is especially vulnerable to contamination that would
31 affect the potability of the water.
- 32 11. “Critical recharging areas” are locations which have the capacity to replenish
33 the storage of underground water due to favorable hydrological and
34 topographical conditions.
- 35 12. “Critical areas” include the following areas and ecosystems:
 - 36 a. Frequently flooded areas;
 - 37 b. Areas with critical recharging effect on aquifers used for potable
38 water;
 - 39 c. Geologically hazardous areas;

- 1 d. Fish and wildlife habitat conservation areas; and
- 2 e. Wetlands.
- 3 13. “CRP management” means the practices and activities that constitute an
- 4 approach to land management, and which are a part of the conservation
- 5 reserve program.
- 6 14. “EIS” means an environmental impact statement; a detailed document which
- 7 analyzes the significant impacts of a particular project or proposal, possible
- 8 alternatives, mitigation measures and unavoidable environmental impacts.
- 9 15. “Exotic species” means any introduced species of plant or animal occurring in
- 10 Washington, not found historically in the state.
- 11 16. “Federal or State Endangered, Threatened, Candidate Species”.
- 12 a. “Endangered species” means a native species that is seriously
- 13 threatened with extinction throughout all or a significant portion of its
- 14 range.
- 15 b. “Threatened species” means a native species that is likely to become
- 16 endangered within the foreseeable future throughout all or a significant
- 17 portion of its range without cooperative management or removal of
- 18 threats.
- 19 c. “Candidate species” means a native species under review for possible
- 20 listing as endangered, threatened, or sensitive. A species will be
- 21 considered for candidate designation if sufficient scientific evidence
- 22 suggests that its status may meet criteria defined for “endangered,”
- 23 “threatened” or “sensitive.” Currently listed state threatened or state
- 24 sensitive species may also be designated as state candidate species if
- 25 their status is in question.
- 26 17. “Frequently flooded areas” include lands in the floodplain subject to a one
- 27 percent or greater chance of flooding in any given year. These areas include,
- 28 but are not limited to, streams, rivers, lakes, coastal areas, wetlands and other
- 29 natural water sources.
- 30 18. “Geologically hazardous areas” means areas that because of their
- 31 susceptibility to erosion, sliding, earthquake, or other geological events, are
- 32 not suited to the siting of commercial, residential, or industrial development
- 33 consistent with public health or safety concerns.
- 34 19. “Groundwater management program” means a comprehensive program
- 35 designed to protect groundwater quality, to assure groundwater quantity, and
- 36 to provide for efficient management of water resources while recognizing
- 37 existing groundwater rights and meeting future needs consistent with local and
- 38 state objectives, policies and authorities within a designated groundwater
- 39 management area or subarea developed pursuant to Chapter 173-100 WAC.
- 40 20. “Habitat” means the environment occupied by individuals of a particular
- 41 species, population or community.

- 1 21. “Impacts” means adverse effects of one thing upon another.
- 2 22. “Local habitat area” means an area that contains sufficient food, water, or
3 cover for native terrestrial or aquatic species that the City has identified as
4 being of significant local concern.
- 5 23. “Long-term commercial significance” means the capacity, productivity and
6 soil composition of land for long-term commercial production, in
7 consideration with the land’s proximity to population areas, and the possibility
8 of more intense uses of the land.
- 9 24. “Major development” includes proposed development projects that are subject
10 to objective and subjective standards that require the exercise of limited
11 discretion about nontechnical issues and which may require a public hearing.
12 The proposed development may or may not be subject to SEPA review;
13 however, any project action not listed as categorically exempt from SEPA
14 review shall be considered a “major development” for the purposes of this
15 title. Included within this type of development are subdivisions, conditional
16 use permits, planned residential developments, shoreline substantial
17 development permits and other similar applications.
- 18 25. “Minor development” includes proposed development projects that are subject
19 to clear, objective and nondiscretionary standards that require the exercise of
20 professional judgment about technical issues and the proposed development is
21 exempt from the State Environmental Policy Act (SEPA). Included within this
22 type of development are single-family building permits, temporary use
23 permits, boundary line adjustments, short subdivisions, home occupations, and
24 accessory uses and/or structures.
- 25 26. “Mitigation” means actions that the approving agency shall require so as to
26 avoid or compensate for impacts to critical areas resulting from the proposed
27 project activity. The type(s) of mitigation required shall be considered and
28 implemented, where feasible, in the following sequential order of preference:
- 29 a. Avoiding the impact altogether by not taking a certain action or parts
30 of an action;
- 31 b. Minimizing impacts by limiting the degree or magnitude of the action
32 and its implementation;
- 33 c. Rectifying the impact by repairing, rehabilitating, or restoring the
34 affected environment;
- 35 d. Reducing or eliminating the impact over time by preservation and
36 maintenance operations during the life of the action;
- 37 e. Compensating for the impact by replacing or providing substitute
38 resources or environments; or
- 39 f. Monitoring the impact and taking appropriate corrective measures to
40 achieve the identified goal.

- 1 27. "Native," when referring to plants or plant communities, means those species
2 or communities that are indigenous to the watershed, including extirpated
3 species.
- 4 28. "New construction" means structures for which the "start of construction"
5 commenced on or after the effective date of the ordinance codified in this
6 chapter.
- 7 29. "Ordinary high water mark (OHWM)" means that mark that will be found by
8 examining the bed and banks and ascertaining where the presence and action
9 of waters are so common and usual, and so long continued in all ordinary
10 years, as to mark upon the soil a character distinct from that of the abutting
11 upland, in respect to vegetation as that condition exists on June 1, 1971, as it
12 may naturally change or change through hydrology thereafter, or as it may
13 change thereafter in accordance with permits issued by a local government or
14 the department. Where the OHWM cannot be found, it shall be the line of
15 mean high water.
- 16 30. "Person" means an individual, partnership, corporation, association,
17 organization, cooperative, public or municipal corporation, or any agency of
18 the state or local governmental unit however designated.
- 19 31. "Passive recreation" means activities that refresh or restore one's strength,
20 spirits or vitality through observation of an action without responding or
21 acting in return.
- 22 32. "Primary association" means key habitat components that are critical to the
23 life cycle of native wildlife species, i.e., nesting sites, wintering areas, and
24 migration corridors. Loss of these values will result in fragmentation into
25 subpopulations or extinction of populations from local areas.
- 26 33. "Priority habitats and species program" means Washington Department of
27 Wildlife's system of classifying habitats and associated species that are of
28 specific concern due to population status and/or sensitivity to habitat
29 manipulation.
- 30 34. "Recreational development" means the modification of the natural or existing
31 environment to accommodate commercial and public facilities designed and
32 used to provide recreational opportunities to the public. Commercial
33 recreational development should be consistent with commercial development
34 defined herein.
- 35 35. "Regulated activities" include land clearing, grading, placement of fill or
36 waste material, removal of protected native vegetation, construction, platting,
37 zone changes and other habitat-altering activities.
- 38 36. "Residential development" entails one or more buildings, structures, lots,
39 parcels or portions thereof that are designed, used or intended to be used as a
40 place of abode for human beings. These include single-family residences,
41 residential subdivisions, short residential subdivisions, attached dwellings, and
42 all accessory uses or structures normally associated with residential uses.
43 Accessory residential uses include, but are not limited to, garages, sheds,

- 1 tennis courts, swimming pools, parking areas, fences, cabanas, saunas and
2 guest cottages. Hotels, motels, dormitories or any other type of overnight or
3 transient housing are excluded from the residential category and must be
4 considered commercial uses depending on project characteristics.
- 5 37. “Restoration” means actions performed to reestablish wetland functional
6 characteristics and processes which have been lost by alterations, activities or
7 catastrophic events within an area which no longer meets the definition of a
8 wetland.
- 9 38. “Review authority” means the decision maker that issues the final land use
10 order, not the appeal authority.
- 11 39. “Sensitive species” are species native to Washington that are vulnerable or
12 declining, and are likely to become endangered or threatened in a significant
13 portion of their ranges within the state, without cooperative management or
14 the removal of the threats. These species are designated in WAC 232-12-011.
- 15 40. “SEPA” means State Environmental Policy Act, Chapter 42.21C RCW and
16 Chapter 197-11 WAC.
- 17 41. “Sole source aquifer” means an aquifer designated by EPA as the sole or
18 principal source of drinking water for a given aquifer service area; that is, an
19 aquifer which is needed to supply 50 percent or more of the drinking water for
20 that area and for which there are no reasonably available alternative sources
21 should the aquifer become contaminated.
- 22 42. “Start of construction” means the date the building permit was issued,
23 provided the actual start of construction, placement of a manufactured home
24 on a foundation or other permanent construction beyond the stage of
25 excavation was within 180 days of the permit date.
- 26 a. The “actual start” means either the first placement of permanent
27 construction of a structure on a site, such as the pouring of slab or
28 footings, the installation of piles, the construction of columns, or any
29 work beyond the stage of excavation, or the placement of a
30 manufactured home on a foundation.
- 31 b. “Permanent construction” does not include:
- 32 i. Land preparation, such as clearing, grading and filling;
- 33 ii. Installation of streets and/or walkways;
- 34 iii. Excavation for a basement, footings, piers, or foundation or the
35 erection of temporary forms;
- 36 iv. Construction of accessory buildings, such as garages or sheds
37 not occupied as dwelling units or not part of the main structure.
- 38 43. “State listed monitor species” means native species that:
- 39 a. Were at one time classified as endangered, threatened, or sensitive;

- 1 b. Require habitat that has limited availability during some portion of its
- 2 life cycle;
- 3 c. Are indicators of environmental quality;
- 4 d. Require further field investigations to determine population status;
- 5 e. Have unresolved taxonomy which may bear upon their status
- 6 classification;
- 7 f. May be competing with and having impacts on other species of
- 8 concern; or
- 9 g. Have significant popular appeal.
- 10 44. “Substantial damage” means damage of any origin sustained by a structure
- 11 whereby the costs of restoring the structure to its before damaged condition
- 12 would equal or exceed 50 percent of the market value of the structure before
- 13 the damage occurred.
- 14 45. “Substantial improvement” means any repair, reconstruction, or improvement
- 15 of a structure, the cost of which equals or exceeds 50 percent of the market
- 16 value of the structure either:
- 17 a. Before the improvement or repair is started; or
- 18 b. If the structure has been damaged and is being restored, before the
- 19 damage occurred. For the purpose of this definition “substantial
- 20 improvement” is considered to occur when the first alteration of any
- 21 wall, ceiling, floor, or other structural part of the building commences,
- 22 whether or not that alteration affects the external dimensions of the
- 23 structure.
- 24 46. “Threatened species” are native to the state of Washington and likely to
- 25 become endangered in the foreseeable future throughout a significant portion
- 26 of their ranges within the state without cooperative management or the
- 27 removal of threats. Threatened species are legally designated in WAC 232-12-
- 28 011.
- 29 47. “Triggering application” means an application for one of the permits or
- 30 approvals listed in this chapter.
- 31 48. “Wellhead protection area” means the surface and subsurface area
- 32 surrounding a water well or well field, supplying a public water system,
- 33 through which contaminants are reasonably likely to move toward and reach
- 34 such water well or well field.
- 35 49. “Wetland” or “wetlands” means areas that are inundated or saturated by
- 36 surface water or groundwater at a frequency and duration sufficient to support,
- 37 and that under normal circumstances do support, a prevalence of vegetation
- 38 typically adapted for life in saturated soil conditions. Wetlands generally
- 39 include swamps, marshes, bogs and similar areas. Wetlands do not include
- 40 those artificial wetlands intentionally created from nonwetland sites, including
- 41 but not limited to irrigation and drainage ditches, grass-lined swales, canals,

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1 detention facilities, wastewater treatment facilities, farm ponds and landscape
2 amenities, or those wetlands created after July 1, 1990, that were
3 unintentionally created as a result of the construction of a road, street, or
4 highway. Wetlands may include those artificial wetlands intentionally created
5 from nonwetland areas created to mitigate conversion of wetlands.

6 **14.08.970 Shoreline Environment Designation Map**