# TOWN OF WILSON CREEK
# DRAFT SHORELINE MASTER PROGRAM

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# SECTION I: Shoreline Goals and Policies (RCW 90.58.100)

## Introduction

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

## Relationship to GMA

A. A Shoreline Master Program (SMP) contains goals, policies, regulations, and a use map that guides shoreline development in accordance with the SMA (RCW 90.58), Washington State Department of Ecology (Ecology) SMP Guidelines (WAC 173-26), and Shoreline Management Permit and Enforcement Procedures (WAC 173-27).

B. The provisions of this program implement the requirements of the SMA. The Town’s SMP is integrated with the Town’s land use regulation system. Consistent with RCW 36.70A.480, the goals and policies contained in this SMP shall be considered an element of the Town’s comprehensive plan required by the Growth Management Act. All other portions of this SMP, including the use regulations, are considered a part of the Town’s development regulations required by the Growth Management Act, and be part of the Unified Development Code.

C. The Inventory and Characterization Report; Restoration Plan; Cumulative Impacts Analysis; No Net Loss Report; and Public Participation Plan are supporting documents, and are not adopted as part of this Program or the Town’s Comprehensive Growth Management Plan.

D. The Inventory and Characterization Report establishes the baseline against which the standard “no net loss of shoreline ecological functions” is measured. The Restoration Plan identifies and prioritizes shoreline restoration opportunities that may be undertaken independently or in conjunction with mitigation for development impacts to improve shoreline ecological functions over time.

## Profile of the Shoreline Jurisdiction within Wilson Creek

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

those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark; and streams or rivers (or segments of natural streams) "that have either: a mean annual flow of 200 cubic feet per second or more, or the portion downstream from the first 300 square miles of drainage area." Wilson Creek's shoreline jurisdiction includes shoreline along Upper Crab Creek. Crab Creek is a Shoreline of Statewide Significance because of its 300 square miles of upstream drainage area.

**Development of Goals and Policies**

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

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

**Economic Development Element**

A. Goal A: Preserve and encourage existing and future agricultural land uses as viable and as a significant economic activity within the community.

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

C. General Economic Development Policies:

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

2. Ensure that agriculture-industrial and other economic activity taking place along the shorelines operates without causing irreparable harm to the quantity of the site's environment or adjacent shorelands, recognizing the existing altered condition of the shoreline area.

3. Where possible, developments are encouraged to incorporate low impact development techniques into new and existing projects and integrate architectural and landscape elements that recognize the shoreline environment.

D. Agricultural and Agricultural-Industrial Development Policies:

1. Assure that agricultural and agricultural-industrial uses will not result in a net loss of shoreline ecological functions or have significant adverse impacts on recreation and public access.

2. Maintain current agricultural and agricultural-industrial uses as a major economic strength of the Town.

3. Protect current agricultural land uses and provide for development of new agricultural uses for which, as applicable, adverse environmental effects to shorelines can be mitigated.

**Public Access and Recreation Element**

A. Goal A: Support recreational activities compatible with the shoreline environment.

B. Policies:

1. Identify opportunities for physical and visual public access on publicly owned shorelines, when feasible. Preserve, maintain and enhance public access afforded by shoreline bridges, public utilities and rights-of-way.

2. Give priority to water-oriented recreational opportunities in order to provide access, use, and enjoyment.

3. Allow for passive and/or active shoreline recreation that emphasizes location along shorelines in association with the Town's and other public agency park, recreation, wildlife habitat and open space plans.

**Circulation Element**

A. Goal A: Maintain and enhance circulation and access network which is compatible with the shoreline environment.

B. Policies:

1. Provide safe, reasonable, and adequate circulation systems to shorelines while minimizing adverse effects on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.

2. Allow for maintenance and improvements to existing roads and parking areas. Allow for necessary new roads and parking areas where other locations outside of shoreline jurisdiction are not feasible.

3. Encourage development to increase connections within the community by adding trails and sidewalks along shoreline when feasible and when compatible with the natural character, resources, and ecology of the shoreline.

**Shoreline Uses and Modifications Element**

A. Goal A: Encourage shoreline use that recognizes the Town of Wilson Creek's natural and cultural values and its unique aesthetic qualities offered by its variety of shoreline environment.

B. Goal B: For shorelines of state-wide significance (SSWS), protection and management priorities are to:

1. Recognize and protect the state-wide interest over local interest;

2. Preserve the natural character of the shoreline;

3. Provide long-term over short-term benefit;

4. Protect the resources and ecology of shorelines;

5. Increase public access to publicly owned areas of shorelines; and

6. Increase recreational opportunities for the public in shoreline areas.

C. General Policies:

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

2. Ensure that proposed shoreline uses do not infringe upon the rights of others, upon the rights of private ownership, upon the rights of the public under the Public Trust Doctrine or federal navigational servitude, and treaty rights of Indian tribes.

D. Shoreline Environment Designations Policies

1. Provide a comprehensive shoreline environment designation system to categorize the Town of Wilson Creek's shorelines into environments based upon the primary characteristics of shoreline areas to guide the use and management of these areas.

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

E. Fill and Excavation Policies

1. Limit fill waterward of the OHWM to support ecological restoration or to facilitate water-dependent or public access uses.

2. Allow fill consistent with floodplain regulations upland of the OHWM provided it is located, designed and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration, and is the minimum necessary to implement an approved project.

F. In-Stream Structures

1. Locate, plan and permit in-stream structures only when consistent with the full range of public interests, ecological functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

G. Shoreline Habitat and Natural Systems Enhancement Projects

1. Include provisions for shoreline vegetation restoration, fish and wildlife habitat enhancement, and low impact development techniques in projects located within shoreline jurisdiction, where feasible.

2. Encourage and facilitate implementation of projects and programs included in the Shoreline Master Program Shoreline Restoration Plan.

H. Recreational Development

1. Shoreline recreational development should be given priority for shoreline location to the extent that the use facilitates the public’s ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to

view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

2. Recreational developments should facilitate appropriate use of shoreline resources while conserving them. These resources include, but are not limited to: accretion shoreforms, wetlands, soils, ground water, surface water, native plant and animal life, and shore processes.

3. Recreational facilities should be a combination of active and passive types. Location of such facilities should consider the ecological function and sensitive nature of the shorelines in order to avoid adverse impacts. For example, wildlife and habitat preservation areas with sensitive nature of shoreline should have low impact recreational uses.

4. Encourage the linkage of shoreline parks, recreation areas, and public access points with linear systems, such as hiking paths, bicycle paths, easements and/or scenic drives

5. Recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment and the importance of public involvement in shorelines management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.

6. Locate and design recreational developments to preserve, enhance, or create scenic views and vistas in accordance with SMP, Section I, Public Access and Recreation element.

I. Residential Development

1. Consider single-family residential development as a priority use only when developed in a manner consistent with the control of pollution and prevention of damage to the natural environment.

2. Locate and construct residential development in a manner that assures no net loss of shoreline ecological functions, and to protect water quality.

3. Ensure the overall density of development, lot coverage, and height of structures is appropriate to the physical capabilities of the site and consistent with the comprehensive plan.

4. Ensure new residential development provides adequate buffers or open space from the water to protect or restore ecological functions and ecosystem-wide processes, to preserve views, to preserve shoreline aesthetic characteristics, to protect the privacy of nearby residences, and to minimize use conflicts.

5. Make adequate provisions for services and infrastructure necessary to support residential development.

6. Design and locate new residences so that shoreline stabilization will not be necessary to protect the structure. The creation of new residential lots should not be allowed unless it is demonstrated the lots can be developed without:

7. Constructing shoreline stabilization structures (such as bulkheads).

8. Causing significant erosion or slope instability.

9. Removing existing native vegetation within shoreline buffers.

J. Shoreline Stabilization

1. Design, locate, size and construct new or replacement structural shoreline stabilization measures to minimize and mitigate the impact of these modifications on the Town's shorelines.

2. Give preference to non-structural shoreline stabilization measures over structural shoreline stabilization, and give preference to soft structural shoreline stabilization over hard structural shoreline stabilization.

3. Allow location, design, and construction of riprap and other bank stabilization measures primarily to prevent damage to existing development or to protect the health, safety and welfare of the Town of Wilson Creek’s residents.

K. Utilities

1. Allow for utility maintenance and extension with criteria for location and vegetation restoration as appropriate.

2. Plan, design, and locate utility facilities to minimize harm to shoreline functions, preserve the natural landscape, and minimize conflicts with present and future planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

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

4. Locate new utility facilities so as not to require extensive shoreline protection works.

5. Locate utility facilities and corridors to protect scenic views from public parks and trails. Whenever possible, such facilities should be placed underground, or alongside or under bridges.

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

**Conservation Element**

A. Goal A: The Town should conserve or enhance important natural, cultural, and scenic resources.

B. Policies:

1. Protect streams, stream corridors, wetlands, natural shorelines, aquifers and unique, diverse or critical wildlife and native plant habitat.

2. Control erosion at its source as a means of controlling water pollution, flooding, and habitat damage downstream should be encouraged.

3. Control stormwater runoff in a manner consistent with low impact development practices which utilize natural detention, retention and recharge techniques to the maximum extent possible.

4. Protect shoreline processes and ecological functions through regulatory and non-regulatory means that may include regulation of development within shoreline jurisdiction, and incentives to private property owners to encourage ecologically sound design and implementation of best land management practices.

5. Work with other jurisdictional agencies in the region and with the private sector to deal effectively with regional and watershed-wide natural environment issues and the protection, preservation, and restoration/enhancement of flow in Crab Creek and associated fish and wildlife habitat.

6. Enhance and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

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

A. Goal A: Identify, preserve and protect historic, cultural and archaeological resources found to be significant by regional, local, state or federal processes.

B. Policy:

1. Identify, protect, preserve, and restore important archeological, historical, and cultural sites located in shorelands.

**Flood Hazard Management Element**

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

B. Policies:

1. Manage development proposed within floodplains and floodways consistent with the Shoreline Management Act, the Federal Emergency Management Agency (FEMA) standards, and the Critical Areas Regulations for frequently flooded areas contained within this SMP.

2. Work with cities, and state and federal agencies to deal effectively with regional flooding issues.

3. Prohibit any development within the floodplain which would individually or cumulatively cause any increase in the base flood elevation beyond FEMA standards.

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

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

B. Policies:

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

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

# SECTION II: Shoreline Regulations – Wilson Creek Chapter 16.18

## Article I. Authority and Purpose

### 16.18.010 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).

### 16.18.020 Applicability

A. This Program shall apply to all of the shorelands and waters within the Town of Wilson Creek as described in the Town's SMP, Section I, Profile of the Shoreline Jurisdiction within Wilson Creek.

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 Town's SMP Section I for the shoreline jurisdiction description and Section 16.18.660 for the definition of uses, activities, and development.

C. The SMP applies to shoreline jurisdiction within the Town 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.

### 16.18.030 Purpose

A. The purposes of this SMP are:

1. To promote the public health, safety, and general welfare of the Town by providing comprehensive policies and effective, reasonable regulations for development, use and protection of jurisdictional shorelines; and

2. To further assume and carry out the local government responsibilities established by the SMA in RCW 90.58.050 including planning and administering the regulatory program consistent with the policy and provisions of the SMA in RCW 90.58.020;

3. To provide a high quality shoreline environment where:

a. The public enjoys access to and views of shoreline areas, where possible;

b. Natural systems are preserved, restored or enhanced;

c. Ecological functions of the shoreline are maintained and improved over time;

4. To apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline; and

5. To assure no net loss of ecological functions associated with the shoreline.

**16.18.040 Relationship to Other Codes, Ordinances and Plans**

A. All applicable federal, state, and local laws shall apply to properties in the shoreline jurisdiction. Where this Program makes reference to any RCW, WAC, or other state, or federal law or regulation the most recent amendment or current edition shall apply.

B. In the event provisions of this SMP conflict with provisions of federal, state or town regulations, the provision that is most protective of shoreline resources shall prevail. It is understood that the provisions of this chapter may not allow development to occur at what otherwise might be the property’s full zoning potential.

C. The policies in the SMP, contained in the Shoreline Master Program Elements, state the underlying objectives the regulations are intended to accomplish. The policies guide the interpretation and enforcement of the SMP regulations contained in WCMC, Chapter 16.18. The policies are not regulations in themselves and, therefore, do not impose requirements beyond those set forth in the regulations.

D. This Shoreline Master Program contains critical area regulations in Article V of this Chapter, applicable only in shoreline jurisdiction that provide a level of protection to critical areas assuring no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. (RCW 36.70A.480).

E. Projects in the shoreline jurisdiction that have been approved through local and state reviews prior to the adoption of this Program are considered accepted. Major changes or new phases of projects that were not included in the originally approved plan will be subject to the policies and regulations of this Program.

**16.18.050 Liberal Construction**

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

**16.18.060 Severability**

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

## 16.18.070 Effective Date

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

## Article II. Environment Designations

### 16.18.100 Environment Designations

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

1. Aquatic
2. Rural Conservancy
3. High Intensity Ag-Industrial

B. Official Shoreline Maps

1. Shoreline Area Designations are delineated on a map (Section 16.18.670), hereby incorporated as a part of this Program that shall be known as the Official Shoreline Map. The purpose of the Official Shoreline Map is to identify Shoreline Area Designations. 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.

C. Unmapped or Undesignated Shorelines

1. 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.

D. Interpretation of Environment Designation Boundaries

1. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries. Appeals of such interpretations may be filed pursuant to Section16.18.610, Appeals.
2. All shoreline areas waterward of the OHWM shall be designated Aquatic.
3. Only one shoreline area designation shall apply to a given shoreland area.
4. All areas within shorelines that are not mapped and/or designated are automatically assigned Rural Conservancy designation.

### 16.18.110 Aquatic

A. Purpose

1. The purpose of the “Aquatic” shoreline designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM, recognizing Crab Creek flow is intermittent, and dependent upon

upstream watershed conditions outside the control of the Town of Wilson Creek.

B. Designation Criteria

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

C. Management Policies

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

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

b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions, as applicable.

c. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of shoreline ecological functions, recognizing shoreline ecological functions vary depending upon whether water is or is not present in Crab Creek. Permitted in-water uses must be managed to avoid impacts to shoreline ecological functions. Unavoidable impacts must be minimized and mitigated.

d. On the Crab Creek stream bed, all new uses and developments should be located and designed to:

i. consider impacts to public views.

ii. allow for the safe, unobstructed passage of fish (when water present) and wildlife, particularly species dependent on migration.

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

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

## 16.18.120 Rural Conservancy

A. Purpose

1. The purpose of the “Rural Conservancy” shoreline designation is to protect shoreline ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource and agricultural uses, achieve natural floodplain processes when flow is present, and provide recreational opportunities, as applicable. Examples of

uses that are appropriate in a Rural Conservancy shoreline designation include agricultural uses and low-impact passive recreation uses, and low-intensity residential development.

B. Designation Criteria

1. The following criteria are used to consider a Rural Conservancy shoreline designation:

a. The shoreline is located within the incorporated area and designated urban growth area.

b. The shoreline has ecological functions to preserve with opportunity for restoration, recognizing flow is often not present in Crab Creek for several summer months annually.

c. The shoreline is planned or platted for agriculture uses;

d. The shoreline is not highly developed with limited existing and future potential for non-agriculture related development.

e. The shoreline has limited potential for public, water-oriented recreation.

C. Management Policies

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

a. Uses in the Rural Conservancy – shoreline designation should be limited to those that sustain the shoreline area's physical and biological resources and do not substantially degrade shoreline ecological functions and processes or the rural, residential and natural character of the shoreline area.

b. Development shall ensure no net loss of shoreline ecological functions and preserve the existing character of the shoreline consistent with the purpose of this designation.

c. Encourage regulations that promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality when water is present to ensure no net loss of shoreline ecological functions.

d. Access, utilities, and public services to serve proposed development within shorelines should be constructed outside shorelines to the extent feasible, and be the minimum necessary to adequately serve existing needs and planned future development.

e. Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

f. New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and

managed consistent with these guidelines to ensure that the natural shoreline functions are protected. Such shoreline modification should not be inconsistent with planning provisions for restoration of shoreline ecological functions.

**16.18.130 High Intensity Ag-Industrial**

A. Purpose

1. The purpose of the "High Intensity Ag-Industrial" shoreline designation is to provide for agriculture based industrial and commercial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

B. Designation Criteria

1. Assign a "High Intensity - Ag-Industrial" environment designation to shoreline areas that are currently being used for agriculture based industrial and commercial uses, and supportive uses such as transport and storage of agricultural product.

C. Management Policies

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

a. For new uses, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should be allowed if they are supporting an existing ag-industrial use.

b. Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Consistent with the Town's restoration plan, new development shall include restoration of shoreline functions as part of project proposals.

c. Where feasible and when not in conflict with public safety, visual and physical public access should be required as provided for in Section 16.18.260, Public Access.

d. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

e. No net loss of shoreline ecological functions as a result of new development should be assured by application of SMP policies and regulations.

## Article III. General Regulations

### 16.18.200 Shoreline Use and Modification

A. Table 16.18.200 (J) 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 Section 16.18.550.
3. "Prohibited" activities, uses, developments, and modifications are not allowed.
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 permit 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 16.18.200 (J), Shoreline Use and Modification Matrix or in Shoreline Modifications and Uses Regulations, Per Article IV of this Chapter. Any proposed unclassified use shall be classified by the Shoreline Administrator as permitted, conditional, or prohibited, based on the listed use to which the proposed use is most similar. If the Shoreline Administrator determines that the proposed use is not similar to any use in this SMP, the proposed use shall be considered prohibited.

F. If any part of a proposed activity, use, modification or development is not eligible for exemption per Section 16.18.570, 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. None of the allowed uses could be conducted in the floodway in any environment designation, except as allowed by Section 16.18.460, Frequently Flooded Areas.

J. Shoreline use and modification matrix:

**Table 16.18.200 (J). Shoreline Use and Modification Matrix**

| **Abbreviations**<br>**A = Allowed with Substantial Development Permit; CU = Conditional Use;**<br>**X= Prohibited; N/A = Not Applicable;**<br><br>**Use/ Modification** | **Aquatic** | **Rural Conservancy** | **High Intensity Ag-Industrial** |
|---|---|---|---|
| Resource Uses | | | |
| Agriculture | X | A | A |
| Agricultural Industrial | X | C | A |
| Fill and Excavation | | | |
| Waterward of OHWM | CU | N/A | N/A |
| Other upland fill | N/A | A | A |
| In-water Modifications | | | |
| In-stream structures | CU | CU[1] | CU[1] |
| Recreational Development | | | |
| Water-dependent | A | A | A |
| Water-related/enjoyment (trails, accessory buildings) | CU | A | A |
| Non-water-oriented | X | CU | CU |
| Residential Development | X | X | X |
| Shoreline Habitat and Natural Systems Enhancement Projects | A | A | A |
| Shoreline Stabilization and Flood Control | | | |
| Shoreline Stabilization | | | |
| New | | | |
| Hard | CU | CU | CU |
| Soft | A | A | A |
| Replacement | A | A | A |
| Transportation | | | |
| Highways, Arterials, Railroads (parallel to OHWM) | CU | A | A |
| Secondary/Public Access Roads (parallel to OHWM) | X | A | A |
| Roads perpendicular to the OHWM | X | A | A |
| Bridges (perpendicular to shoreline) | CU | CU | CU |
| Existing bridges, trails, roads, and parking facilities: improvement or expansion | A | A | A |
| New Parking, Accessory[2] | Permitted under the primary use permit process | | |

| **Abbreviations**<br>**A = Allowed with Substantial Development Permit; CU = Conditional Use;**<br>**X= Prohibited; N/A = Not Applicable;**<br><br>**Use/ Modification** | **Aquatic** | **Rural Conservancy** | **High Intensity Ag-Industrial** |
|---|---|---|---|
| New Parking, Primary | X | X | X |
| Utility | | | |
| Above and under-ground Utilities (parallel or across shoreline) | CU | A | A |
| | | | |
| [1] Habitat restoration and/or fish habitat enhance purposes only<br>[2] Not allowed within 50 feet of edge of riparian vegetation corridor | | | |

## 16.18.210 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 16.18.210 (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 Wilson Creek Municipal Code.

**Table 16.18.210 (A). Shoreline Development Standards**

| | **Aquatic** | **Rural Conservancy** | **High Intensity Ag-Industrial** |
|---|---|---|---|
| Building Height: maximum in feet[1] | NA | 35 | |
| Impervious Surface Cover (%) | NA | 10 | 30 |
| Riparian Buffer Width in feet | NA | 65 | |
| Trail Width in feet | NA | Up to10 | |
| [1] According to WCMC 16.18.210(C) | | | |

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

C. No permit shall be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except

where the SMP does not prohibit the same and then only when overriding considerations of the public interest will be served. New agricultural-industrial structures may exceed 35 feet height limit if demonstrates that no other location is feasible, public interest will be served, and public access is provided according to Section 16.18.260, Public Access.

**16.18.220 Archaeological and Historic Resources**

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

B. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource, or upon findings as described in Section 16.18.220 (A) above, the Shoreline Administrator shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Shoreline Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the site assessment to the Shoreline Administrator for distribution to the applicable parties for review.

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

**16.18.230 Environmental Protection**

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

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

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

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

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

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

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

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

C. Projects that cause significant adverse environmental impacts, as defined in WAC 197-11-794 and Section 16.18.660, Definitions, are not allowed unless mitigated according to Section 16.18.230 (B), above, to avoid reduction or damage to ecosystem-wide processes and ecological functions. As part of this analysis, the applicant shall evaluate whether the project may adversely affect existing hydrologic connections between streams and wetlands, and either modify the project or mitigate any impacts as needed.

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

E. When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the adversely impacted functions directly and in the immediate vicinity of the adverse impact. However, alternative compensatory mitigation may be authorized within the affected drainage area or watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans, including the Shoreline Restoration Plan (to be developed), applicable to the area of adverse impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

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

1. Inventory existing shoreline environment including the physical, chemical and biological elements and provide an assessment of their condition;

2. A discussion of the project's compliance with mitigation sequencing requirements and remaining unavoidable adverse impacts on the ecological functions;

3. A discussion of any federal, state, or local special management recommendations which have been developed for critical areas or other species or habitats located on the site;

4. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity;

5. A discussion of proposed measures which mitigate the adverse impacts of the project to ensure no net loss of shoreline ecological functions;

6. Scaled drawings of existing and proposed conditions, materials specifications, and a five-year maintenance and monitoring plan, including performance standards;

7. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed;

8. Contingency plan if the mitigation fails to meet established success criteria; and

9. Any additional information necessary to determine the adverse impacts of a proposal and mitigation of the impacts.

**16.18.240 Shoreline Vegetation Conservation**

A. Vegetation conservation standards shall not apply retroactively to existing uses and developments. Vegetation associated with existing structures, uses and developments may be maintained within shoreline jurisdiction as stipulated in the approval documents for the development.

B. Regulations specifying establishment and management of shoreline buffers are located in the Article V, Critical Areas, of this Chapter. Vegetation within shoreline buffers, other stream buffers, and wetlands and wetland buffers shall be managed consistent with the Article V, Critical Areas, of this Chapter.

C. Vegetation outside of shoreline buffers, other stream buffers, and wetlands and wetland buffers and within shoreline jurisdiction shall be managed according to this Section 16.18.230, Environmental Protection, and any other regulations specific to vegetation management contained in other chapters of this SMP.

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

## 16.18.250 Water Quality, Stormwater, and Nonpoint Pollution

A. The location, design, construction, and management of all shoreline uses and activities shall protect the quality and quantity of surface and groundwater adjacent to the site.

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

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

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

E. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a water body, except by a qualified professional in accordance with state and federal laws.

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

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

H. BMPs for control of erosion and sedimentation shall be implemented for all development in shoreline jurisdiction through a Town-approved temporary erosion and sediment control (TESC) plan, in accordance with the latest version of the Ecology's Stormwater Management Manual for Eastern Washington, as adopted by the Town.

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

J. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking

or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in shoreline waterbodies.

**16.18.260 Public Access**

A. There are limited practical options for public access to Wilson Creek shoreline. Applicants required to provide shoreline public access shall provide physical or visual access, consistent with the Town's and other agencies management plans when applicable, unless specifically exempted in this section. Examples of physical and visual access are listed below.

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

2. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, view platform, or other area serving as a means of physical approach to public waters.

B. Except as provided in Section 16.18.260 (C), new uses shall provide for safe and convenient public access to and along the shoreline where any of the following conditions are present:

1. The development is proposed by a public entity or on public lands;

2. The nature of the proposed use, activity, or development will likely result in an increased demand for public access to the shoreline;

3. The proposed use, activity, or development is not a water-oriented or other preferred shoreline use, activity or development under the Act, such as a non-water-oriented commercial or recreational use;

4. The proposed use, activity, or development may block or discourage the use of customary and established public access paths, walkways, trails, or corridors; or

5. The proposed use, activity, or development will interfere with the public use, activity and enjoyment of shoreline areas or waterbodies subject to the public trust doctrine.

C. An applicant shall not be required to provide public access where one or more of the following conditions apply, provided such exceptions shall not be used to prevent implementing the access and trail provisions mentioned in the Town's and other agencies management plans:

1. Proposed use is agricultural/ranching activities;

2. The nature of the use, activity, or development or the characteristics of the site make public access requirements inappropriate due to health, safety, or environmental hazards; the proponent shall carry the burden of demonstrating by substantial evidence the existence of unavoidable or unmitigable threats or

hazards to public health, safety, or the environment that would be created or exacerbated by public access upon the site;

3. An existing, new or expanded road or utility crossing through shoreline jurisdiction shall not create the need for public access if the development being accessed or served by the road or utility is located outside of shoreline jurisdiction.

4. The proposed use, activity, or development has security requirements that are not feasible to address through the application of alternative design features for public access such as offsite improvements, viewing platforms, and separation of uses through site planning and design;

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

6. Safe and convenient public access already exists in the general vicinity of the site, and/or the Town and agencies' plans show adequate public access at the property; or

7. Public access has reasonable potential to threaten or harm the natural functions and native characteristics of the shoreline and/or is deemed detrimental to threatened or endangered species under the Endangered Species Act.

D. Public access shall be located and designed to respect private property rights, be compatible with the shoreline environment, protect ecological functions and processes, and protect aesthetic values of shoreline, and provide for public safety.

E. Shared community access may be allowed if there is no existing or planned public access along the shoreline identified in the Town and other agencies' plan. Where provided, community access shall be subject to all applicable development standards of this section. Shared community access is not required when any of the conditions under Section 16.18.260 (C) applies.

F. General Performance Standards

1. Uses, activities and developments shall not interfere with the regular and established public use.

2. Shoreline substantial development or conditional uses shall minimize the impact on views of shoreline waterbodies from public land or substantial numbers of residences.

3. Proponents shall include within their shoreline applications an evaluation of a proposed use, activity, or development’s likely adverse impact on current public access and future demands for access to the site. Such evaluation shall consider potential alternatives and mitigation measures to further the policies of this SMP and the provisions of this section.

4. Public access easements, trails, walkways, corridors, and other facilities may encroach upon any buffers or setbacks required in Article V, Critical Areas, or

under other provisions of this SMP, provided that such encroachment does not conflict with other policies and regulations of this SMP, and that no net loss of ecological function can be achieved. Any encroachment into a buffer or setback must be as close to the landward edge of the buffer as possible.

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

G. Trails and Levees

1. Where public access is to be provided by dedication of public access easements along the OHWM, the minimum width of such easements shall be 10 feet. Total width of trail including shoulders shall be 10 feet maximum, or as required by Americans with Disabilities Act (ADA) regulations.

2. Pervious pavings are encouraged for all trails, and are required for trail shoulders.

3. Trails shall be located, constructed, and maintained so as to avoid, to the maximum extent possible, removal and other impacts to perennial native vegetation consistent with the Habitat Management Plan.

H. Rights-of-Way, Easements, and Streets for Public Access

1. The Town shall maintain existing public rights of ways or easements as a means of retaining public access on the shoreline. Proposed use, activity or developments shall maintain public access provided by public street ends, public utilities, and rights-of-way.

2. The public easements required pursuant to this section, for the purpose of providing access across or through the site to the OHWM, shall be maintained by the property owner to provide for reasonable and safe public access to the OHWM.

I. Signage

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

## 16.18.270 Flood Hazard Reduction

A. Development in floodplains shall avoid significantly or cumulatively increasing flood hazards. Development shall be consistent with this SMP, as well as applicable guidelines of the Federal Emergency Management Agency and Section 16.18.460, Frequently Flooded Areas.

B. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as a result of normal and naturally occurring processes and has been mapped consistent with WAC 173-26-221(3)(b) . Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and

may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

C. The following uses and activities may be authorized within the CMZ or floodway:

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

2. Development of new or expansion or redevelopment of existing bridges, utility lines, public stormwater facilities and outfalls, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. The evaluation of cost differences between options within the CMZ or floodway and outside of the CMZ or floodway shall include the cost of design, permitting, construction and long-term maintenance or repair. . For the purposes of this section “unreasonable and disproportionate” means that locations outside of the floodway or channel migration zone would add more than 20% to the total project cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline. Where such structures are allowed, mitigation shall address adversely impacted functions and processes in the affected shoreline.

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

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

5. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the modified or expanded development includes appropriate protection of ecological functions.

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

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

D. Existing structural flood hazard reduction measures, such as levees, may be repaired and maintained as necessary to protect legal uses on the landward side of such structures. Increases in height of an existing levee, with any associated increase in width, that may be needed to prevent a reduction in the authorized level of protection

of existing legal structures and uses shall be considered an element of repair and maintenance.

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

F. .New development and subdivisions. Approve new development or subdivisions when it can be reasonably foreseeable that the development or use would not require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development or use consistent with the following. (WAC 173-26- 221(3)(c)(i)).

1. Floodway: New development and subdivisions shall be subject to applicable floodway regulations in GCC 16.18.460 and the Grant County Flood Damage and Prevention Ordinance (GCC Chapter 24.16).

2. Channel Migration Zone:

a. New development in the channel migration zone is allowed subject to:

i. Structures are located on an existing legal lot created prior to XXXX (adoption of SMP);

ii. A feasible alternative location outside of the channel migration zone is not available on-site; and

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

b. New subdivisions in the channel migration zone may be allowed subject to:

i. All lots contain five thousand square feet or more of buildable land outside of the channel migration zone;

ii. Access to all lots does not cross the channel migration zone; and

iii. All infrastructure is located outside the channel migration zone except that an on-site septic system is allowed in the channel migration zone if: a feasible alternative location is not available on-site, and to the maximum extent practical, the septic system is located the farthest distance from the OHWM.

G. New public and private structural flood hazard reduction measures shall be approved when a scientific and engineering analysis demonstrates the following:

1. That they are necessary to protect existing development;

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

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

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

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

J. In those instances where management of vegetation as required by this SMP conflicts with vegetation provisions included in state, federal or other flood hazard agency documents governing Town-authorized, legal flood hazard reduction measures, the vegetation requirements of this SMP will not apply. However, the applicant shall submit documentation of these conflicting provisions with any shoreline permit applications, and shall comply with all other provisions of this section and this SMP that are not strictly prohibited by the approving flood hazard agency.

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

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

## Article IV. Shoreline Modifications and Uses Regulations

### 16.18.300 Agriculture

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

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

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

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

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

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

D. SMP provisions shall apply in the following cases:

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

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

3. Conversion of agricultural lands to other uses;

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

5. Agricultural development and uses not specifically exempted by the Act.

E. New non-agricultural activities proposed on agricultural lands shall be consistent with the environment designation and the Shoreline Use and Modification Matrix (Table 16.18.200 (J)), as well as other applicable shoreline use standards, e.g., Residential.

F. Agricultural uses and development in support of agricultural uses shall be located and designed to assure no net loss of ecological functions and no significant adverse impact on other shoreline resources and values.

G. New feedlots are prohibited in critical area buffers. Feed lots shall be located in such a manner as to prevent waste runoff from entering water bodies or ground water.

H. Agricultural uses and activities shall prevent and control erosion of soils and bank materials within shoreline areas. They shall minimize siltation, turbidity, pollution and other environmental degradation of watercourses and wetlands.

I. Agricultural chemicals shall be applied in a manner consistent with best management practices for agriculture and Article V of this Chapter.

J. New or redeveloped agricultural activities shall provide a buffer of permanent native vegetation between all cropland or pasture areas and adjacent waters or wetlands pursuant to the critical areas provisions of this SMP.

K. Agricultural development shall conform to applicable state and federal policies and regulations.

L. New agricultural lands created by diking, draining, or filling wetlands or channel migration zones shall not be allowed.

**16.18.310 Agriculture-Industrial Uses**

A. Existing agriculture based industrial uses and activities as allowed in the Comprehensive Plan shall be allowed.

B. General Preferences:

1. Preference shall be given to water-dependent industrial uses over nonwater-dependent industrial uses; and second, give preference to water-related industrial uses over nonwater-oriented industrial uses.

2. Public access shall be required when facilities are provided on public land according to Section 16.18.260, Public Access

3. Public access to shoreline shall be provided to mitigate impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in Section 16.18.260, Public Access

C. New agriculture based industrial uses shall be located and designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

D. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.

E. New nonwater-oriented agricultural-industrial development should be prohibited on shorelines except when:

1. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or

2. Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

3. If the site is physically separated from the shoreline by another property or public right of way.

### 16.18.320 Fill and Excavation

A. Fill waterward of the OHWM, except fill to support ecological restoration, requires a Conditional Use Permit and may be permitted only when:

1. In conjunction with water-dependent or public access uses allowed by this SMP;

2. In conjunction with a bridge or transportation facility of statewide significance for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;

3. In conjunction with implementation of an interagency environmental clean-up plan to clean up and dispose of contaminated sediments;

4. Disposal of dredged material considered suitable under, and conducted in accordance with, the Dredged Material Management Program of the Washington Department of Natural Resources; or

5. In conjunction with any other environmental restoration or enhancement project.

B. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills. Fills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven not feasible.

C. Fill upland and waterward of the OHWM, including in non-watered side channels, shall be permitted only where it is demonstrated that the proposed action will not:

1. Result in significant ecological damage to water quality, fish, and/or wildlife habitat;

2. Significantly reduce public access to the shoreline or significantly interfere with shoreline recreational uses.

D. Fill shall be of the minimum amount and extent necessary to accomplish the purpose of the fill.

E. Excavation waterward of the OHWM or within wetlands shall be considered dredging for purposes of this Program.

F. Fills or excavation shall not be located where shore stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated, as applicable.

G. Fills, beach nourishment and excavation shall be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

### 16.18.330 In-Stream Structure

A. In-stream structures are those structures placed by humans within a stream or river waterward of the OHWM that either cause or have the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, structures primarily

intended for fisheries management, or other purposes. Docks, piers and marinas are not regulated as "in-stream structures" under this section of the SMP. See the Section 16.18.370, Transportation: Trails, Roads, and Parking, and Section 16.18.380, Utilities, for regulations governing road and utility crossings of streams.

B. General

1. The location, planning and design of in-stream structures shall be compatible with the following:

   a. The full range of public interests, demand for public access to shoreline waters; desire for protection from floods; and need for preservation of historical and cultural resources.

   b. Protection and preservation of ecosystem-wide processes and ecological functions, including, but not limited to, fish and wildlife, with special emphasis on protecting and restoring priority habitats and species, and water resources and hydro geological processes.

2. Structures shall be designed, located, and constructed consistent with mitigation sequencing principles in Section 16.18.230, Environmental Protection and Article V, Critical Areas, and as otherwise limited by floodplain regulations found in the Section 16.18.460.

3. Structures shall be designed and located to minimize removal of riparian vegetation and, if applicable, to return flow to the stream in as short a distance as possible.

4. In-stream structures shall provide for adequate upstream and downstream migration of resident fish, as applicable, and shall not adversely affect salmonid fish species or adversely modify salmonid fish habitat, as applicable.

5. Utilities and transmission lines shall be located so as to minimize obstruction or degradation of views, and comply with applicable provisions of the Utilities section of this SMP.

6. Mitigation shall be required of the proponent for the loss of ecological functions and processes pursuant to Section 16.18.230, Environmental Protection, and Article V, Critical Areas. No net loss in function, value, or acreage shall occur from such development.

**16.18.340 Recreational Development**

A. Because of the nature of the shoreline and land use pattern, minimal recreational development is anticipated in Wilson Creek shoreline. General Preferences are as follows:

1. Recreational uses and facilities shall include features that relate to access, enjoyment, and use of the Wilson Creek shorelines.

2. Both passive and active shoreline recreation uses are allowed when feasible and consistent with the Town's Comprehensive Plan.

3. Water-oriented recreational uses and activities are preferred in shoreline jurisdiction. Water-dependent recreational uses shall be preferred as a first priority and water-related and water-enjoyment recreational uses as a second priority.

B. General Performance Standards

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

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

3. In approving shoreline recreational developments, the Town shall ensure that the development will maintain, enhance, or restore desirable shoreline features including unique and fragile areas, scenic views, and aesthetic values.

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

D. Recreational development shall be consistent with provisions of Section 16.18.240, Shoreline Vegetation Conservation, and Article V, Critical Areas.

E. Accessory uses and support facilities such as maintenance facilities, utilities, and other non-water-oriented uses shall be consolidated and located in upland areas outside shoreline, wetland, and riparian buffers unless such facilities, utilities, and uses are allowed in shoreline buffers based on the regulations of this SMP.

F. Recreational facilities shall make adequate provisions, such as screening, landscaping buffer strips, fences and signs, to prevent trespass upon adjacent properties and to protect the value and enjoyment of adjacent or nearby private properties and natural areas, as applicable.

G. Recreational structures are only allowed to be built over water when they provide public access or facilitate a water-dependent use and shall be the minimum size necessary to accommodate the permitted activity.

H. Recreational development shall minimize effective impervious surfaces in shoreline jurisdiction and incorporate low-impact development techniques.

**16.18.350 Shoreline Habitat and Natural Systems Enhancement Projects**

A. Shoreline restoration and enhancement activities designed to restore or enhance shoreline ecological functions and processes and/or shoreline features should be

targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.

B. Shoreline restoration, enhancement, and mitigation activities designed to create dynamic and sustainable ecosystems to assist the Town in achieving no net loss of shoreline ecological functions are preferred.

C. Restoration activities shall be carried out in accordance with an approved shoreline restoration plan, and in accordance with the provisions of this SMP.

D. To the extent possible, restoration, enhancement, and mitigation activities shall be integrated and coordinated with other parallel natural resource management efforts, such as those identified in the shoreline restoration plan.

E. Habitat and expansion, restoration, and enhancement projects may be permitted subject to required state or federal permits when the applicant has demonstrated that:

1. The project will not adversely impact spawning, nesting, or breeding fish and wildlife habitat conservation areas;

2. Upstream or downstream properties or fish and wildlife habitat conservation areas will not be adversely affected;

3. Water quality will not be degraded;

4. Flood storage capacity will not be degraded; and

5. Impacts to critical areas and buffers will be avoided and where unavoidable, minimized and mitigated.

F. The town shall review the projects for consistency with this SMP in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant (see Section 16.18.570, Exemptions from Shoreline Substantial Development Permits).

**16.18.360 Shoreline Stabilization**

A. Shoreline restoration and enhancement activities designed to restore shoreline ecological functions and processes and/or shoreline features should be targeted toward meeting the needs of sensitive and/or regionally important plant, fish, and wildlife species, and shall be given priority.

B. New shoreline stabilization for new development is prohibited unless it can be demonstrated that the proposed use cannot be developed without shore protection or is necessary to restore ecological functions or hazardous substance remediation.

C. Proposed designs for new or expanded shoreline stabilization shall be designed in accordance with applicable state guidelines , must use best available science, must document that alternative solutions are not feasible or do not provide sufficient protection; must demonstrate that future stabilization measures would not be required on the project site or adjacent properties; and be certified by a qualified professional.

D. Land subdivisions and lot line adjustments shall be designed to assure that future development of the newly created lots will not require structural stabilization for subsequent development to occur.

E. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, and public facilities, etc., is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three (3) years as a result of shoreline erosion caused by wind/wave action or other hydraulic forces, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.

F. Replacement of an existing shoreline stabilization structure with a similar structure is permitted if there is a demonstrated need to protect existing primary uses, structures or public facilities including roads, bridges, railways, irrigation and utility systems from erosion caused by stream undercutting or wave action; provided, that the existing shoreline stabilization structure is removed from the shoreline as part of the replacement activity. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the facility was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. Proposed designs for new or expanded shore stabilization shall be in accordance with applicable state guidelines and certified by a qualified professional.

G. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.

H. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 will be authorized through a Shoreline Exemption. Stabilization projects that are not part of such a fish enhancement project will be regulated by this SMP.

I. Small-scale or uncomplicated shoreline stabilization projects (for example, tree planting projects) shall be reviewed by a qualified professional to ensure that the project has been designed using best available science.

J. Large-scale or more complex shoreline stabilization projects (for example, projects requiring fill or excavation, placing objects in the water, or hardening the bank) shall be designed by a qualified professional using best available science. The applicant may be required to have a qualified professional oversee construction or construct the project.

K. Standards for new stabilization structures when found to be necessary include limiting the size to minimum, using measures to assure no net loss of shoreline ecological functions, using soft approaches, and mitigating for impacts.

### 16.18.370 Transportation: Trails, Roads, and Parking

A. New or expanded motor vehicle transportation facilities shall not be located within shoreline jurisdiction, unless:

1. The proponent demonstrates that no feasible upland alternatives exist;
2. The project represents the minimum development necessary to serve another specific, localized, and permitted shoreline use; or
3. In the case of a water crossing, the proponent demonstrates that the project is necessary to further a substantial public interest.

B. When new roads or road expansions are unavoidable in shoreline jurisdiction, proposed transportation facilities shall be planned, located, and designed to achieve the following:

1. Meet mitigation sequencing provisions of Section 16.18.230, Environmental Protection;
2. Avoid adverse impacts on existing or planned water-oriented uses;
3. Set back from the OHWM to allow for a usable shoreline area for vegetation conservation and any preferred shoreline uses unless infeasible;
4. Minimize grading, vegetation clearing, and alterations of the natural topography; and
5. Use BMPs for preventing erosion and degradation of surface water quality.

C. Improvements to existing motor vehicle facilities shall not interfere with pedestrian and bicycle access, and shall whenever possible, provide for expansion and enhancement of pedestrian and bicycle transportation facilities.

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

E. Pedestrian and bicycle transportation facilities shall be designed, located, and constructed consistent with the policies and regulations for public access as provided in Section 16.18.2560, Public Access.

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

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

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

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

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

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

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

K. Shoreline crossings and culverts shall be designed to minimize adverse impacts on riparian and aquatic habitat and shall allow for fish passage. See Section 16.18.440, for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.

**16.18.380 Utilities**

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

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

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

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

1. Reason why the utility facility must be in shoreline jurisdiction;
2. Alternative locations considered and reasons for their elimination;

3. Location of the same, similar, or other utility facilities in the vicinity of the proposed project;

4. Proposed method(s) of construction;

5. Plans for reclamation of areas to be disturbed during construction;

6. Landscape plans;

7. Methods to achieve no net loss of ecological function and minimize clearing of native vegetation; and

8. Consistency with Town comprehensive plans for utilities, where such plans exist.

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

1. The public will not be exposed to dangers from the utility equipment; and

2. The utility itself will not be subjected to unusual risks of damage by the public.

E. In areas where utilities must cross shoreline jurisdiction, they shall do so by the most direct route feasible, unless such a route would negatively affect an environmentally critical area, or obstruct public access to the shoreline. See Section 16.18.440 for regulations governing crossings of non-shoreline streams located in shoreline jurisdiction.

F. Utility facilities shall be designed and located in a manner that protects scenic views and minimizes adverse aesthetic impacts.

G. New utilities which must be constructed across shoreline jurisdiction in previously undisturbed areas must submit a mitigation plan demonstrating the restoration of the shoreline to at least its existing condition. Upon completion of utility installation or maintenance, any disturbed areas shall be regraded to be compatible with the natural terrain of the area and revegetated with appropriate native plants to prevent erosion.

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

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

J. Minor trenching to allow the installation of necessary underground pipes or cables is allowed if no alternative, including boring, is feasible, and if:

1. Impacts on fish and wildlife habitat are avoided to the maximum extent possible.

2. The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.

3. Appropriate BMPs are employed to prevent water quality impacts or other environmental degradation.

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

## Article V. Critical Areas

### 16.18.400 General Provisions

A. Statutory Authorization

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

B. Purpose

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

a. Implement the Town Comprehensive Plan (as amended) and comply with the requirements of the Shoreline Management Act;

b. Protect critical areas through the application of the most current, accurate, and complete scientific or technical information available as determined according to WAC 173-26-201(2)(a), and in consultation with state and federal agencies and other qualified professionals;

c. Protect the general public, resources (including cultural and historic resources), and facilities from injury, loss of life, property damage, or financial loss due to erosion, landslides, pollution, steep slope failure, ground shaking or seismic activity;

d. Protect the general public, resources, and facilities from injury, loss of life, property damage, or financial loss due to inundation of frequently flooded areas;

e. Protect unique, fragile and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats; and

f. Prevent cumulative adverse environmental impacts to water quality and availability, wetlands, and fish and wildlife habitat.

C. Designation of Critical Areas

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

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

a. Wetlands

b. Critical Aquifer Recharge Areas

c. Fish and Wildlife Habitat Conservation Areas

d. Geologically Hazardous Areas

e. Frequently Flooded Areas

D. Data Maps

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

2. In addition to those maps and references identified in the relevant sections of this Chapter, the following maps and documents may be used:

a. Critical area maps included in Comprehensive Plans of Grant County

b. Maps and reference documents in the Grant County SMP Inventory, Characterization and Analysis report, as applicable

c. U.S.G.S. Topographic Quadrangle Maps

d. Aerial photos

e. Soil Survey of Grant County, Washington by the United States Department of Agriculture, Soil Conservation Service

f. National Wetland Inventory maps; and

g. WDFW's Priority Habitats & Species maps

E. Interpretation of Data Maps

1. The Shoreline Administrator is charged with administration of this title for the purpose of interpreting data maps. An affected property owner or other party

with standing has a right to appeal the Shoreline Administrator's determination according to the provisions of Section 16.18.610, Appeals.

2. All development applications are required to show the boundary(ies) of all resource lands and critical areas on a scaled drawing prior to the development application being considered complete for processing purposes.

3. Maps and reference documents in the Grant County SMP Inventory, Analysis, and Characterization report, as applicable.

F. Applicability

1. This chapter applies to all real property within the shoreline jurisdiction of the corporate limits of the Town, Washington, as it is now configured or may, from time to time, be altered.

2. These critical areas regulations shall apply to critical areas located within the shoreline jurisdiction.

3. No action shall be taken by any person or entity that results in any alteration of any critical area located within the shoreline jurisdiction except as consistent with the purposes, objectives and intent of these regulations.

4. Where two or more types of critical areas overlap, requirements for development shall be consistent with the standards for each critical area.

5. These regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to these regulations shall be included in the SEPA review and threshold determination.

G. Exemptions

1. The activities listed below are exempt from the provisions of this chapter. Exempt activities shall be conducted using all reasonable methods to avoid impacts to critical areas. The decision to declare an activity exempt shall be an Administrative Decision, as set forth in Section 16.18.400 (L). Exemption from the chapter shall not be considered permission to degrade a critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be repaired at the responsible party's expense.

a. Emergency modification or construction necessary to protect life or real property from immediate damage by natural hazards innate to critical areas. An emergency is an unanticipated event or occurrence which poses an imminent threat to public health, safety, or the environment, and which requires immediate action within a time too short to allow full compliance. Once the threat to the public health, safety, or the environment has dissipated, the actions undertaken as a result of the previous emergency shall be subject to and brought into full compliance with these regulations.

b. Normal maintenance or repair of existing buildings, structures, roads, utilities, levees, or drainage systems, provided the activity does not further alter, encroach upon, or increase impacts to critical areas or associated buffers.

c. Existing agricultural activities normal or necessary to general farming conducted according to industry-recognized best management practices, including the raising of crops or the grazing of livestock.

d. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities. In every case, impacts to critical areas shall be minimized and areas disturbed by such activity shall be immediately restored as directed by the Shoreline Administrator to ensure no loss of functions and values.

e. Passive recreational activities, including, but not limited to: fishing, bird watching, hiking, hunting, boating, horseback riding, skiing, swimming, canoeing, and bicycling; provided the activity does not alter the critical area or its buffer by changing drainage patterns, topography, water conditions or water sources.

H. Permitting

1. All applications for permits to conduct activities having a possible significant impact on critical areas that are located on or near a project site must identify the areas affected and make an estimate of the probable impact. The Town shall deny all requests for permits which would result in a net loss of ecological functions, those activities degrading a wetland or fish and/or wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geologic hazards, which would tend to aggravate geologic hazards, or which would harm critical recharging areas for aquifers. The Town may, however, grant permits which include mitigation measures if the mitigation measures adequately protect the ecological processes and functions of the critical area and people involved. In granting a permit that includes mitigation measures, the most current, accurate, and complete scientific or technical information available, which shall be determined utilizing the criteria set out in WAC 173-26-201(2)(a), shall be used to develop and approve the mitigation measures (Section 16.18.410).

I. Determination

1. Each development permit shall be reviewed to determine if the proposal is within a critical area or critical area buffer. Town staff shall use maps and data maintained by the Town and a site inspection if appropriate.

2. If it is determined that a critical area(s) is present additional assessments prepared by a qualified biologist best suited for the type of identified critical area(s) may be required.

3. In cases related to geohazards, the assessment shall include a description of the geology of the site and the proposed development; an assessment of the

potential impact the project may have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; a conclusion as to whether further analysis is necessary; and be signed by and bear the seal of the engineer or geologist that prepared it.

4. When a geotechnical report is required it shall include a certification from the engineer preparing the report, including the engineer's professional stamp and signature, stating all of the following:

   a. The risk of damage from the project, both on- and off- site;

   b. The project will not materially increase the risk of occurrence of the hazard; and

   c. The specific measures incorporated into the design and operational plan of the project to eliminate or reduce the risk of damage due to the hazard.

5. All mitigation measures, construction techniques, recommendations, and technical specifications provided in the geotechnical report shall be applied during the implementation of the proposal. The engineer of record shall submit sealed verification at the conclusion of construction that development occurred in conformance with the approved plans.

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

J. Critical Areas Review Process

1. All land use and building permits shall require that applicants disclose activities within two hundred (200) feet of a known or suspected critical area. The provisions of this chapter shall apply to any such proposals. The review process shall proceed as follows:

   a. Pre-application meeting/site visit. Upon receiving a land use or development proposal, the Shoreline Administrator shall schedule a pre-application meeting and/or site visit with the proponent. The purpose is to decide whether the proposal is likely to affect the ecological functions of critical areas or pose health and safety hazards. At the meeting, the Shoreline Administrator will:

      i. Provide the applicant with the requirements of this chapter and other applicable local regulations, including but not limited to comprehensive plans, zoning maps, and overlays;

      ii. Review critical areas maps and other available reference materials with the applicant;

      iii. Outline the review and permitting processes;

iv. Work with the applicant to identify any potential concerns with regards to critical areas;

v. Provide the applicant with the necessary application materials and SEPA checklist form.

b. Exemption Determination

c. Agency Consultation

i. Because species populations and habitat systems are dynamic, agency consultation shall be required where activities are proposed within two hundred (200) feet of a designated Fish and Wildlife Habitat Conservation Area. The Shoreline Administrator shall consult with WDFW to determine the value of the site to priority habitats and species.

ii. Because site specific mapping has not been completed for many critical areas within the Town, staff may undertake agency consultation in any instance in which activities are proposed within two hundred (200) feet of a known or suspected critical area.

d. Application and SEPA Checklist

i. The applicant shall submit all relevant land use/development applications.

ii. The applicant shall submit a completed SEPA Checklist, except in the following cases:

- The use or activity has been found to be exempt from the provisions of these regulations, as described under the heading “Exemptions” above; or
- The use or activity is categorically exempt from SEPA review.

e. Determination of need for critical areas report. Based upon the pre-application meeting, application materials, SEPA Checklist, and in the case of Fish and Wildlife Habitat Conservation Areas, the outcome of the agency consultation, the Shoreline Administrator shall determine if there is cause to require a critical areas report. In addition, the Shoreline Administrator may use critical areas maps and reference materials, information and scientific opinions from appropriate agencies, or any reasonable evidence regarding the existence of critical area(s) on or adjacent to the site of the proposed activity. The determination of need for a critical areas report shall be an Administrative Decision, as set forth in Section 16.18.400 (L), of these regulations.

f. Documentation and notification. The Shoreline Administrator shall document the pre-application meeting and/or site visit, application and

SEPA threshold determination, and any other steps or findings (including, in the case of Fish and Wildlife Habitat Conservation Areas, the agency consultation) used to decide whether a critical areas report shall be required. The applicant shall receive notice of the determination and any findings that support it.

K. Critical Areas Report

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

2. The requirement for critical areas reports may be waived by the Shoreline Administrator if there is substantial evidence that:

   a. There will be no alteration of the critical area(s) and/or the required buffer(s);

   b. The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this ordinance and the Town's comprehensive plan; and,

   c. The minimum standards of this chapter will be met.

3. No critical areas report is required for proposals that are exempt from the provisions of this chapter as set forth under Section 16.18.400 (G) Exemptions, herein.

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

5. At a minimum, a required critical areas report shall contain the following information:

   a. Applicant's name and contact information; permits being sought, and description of the proposal;

   b. A copy of the site plan for the development proposal, drawn to scale and showing:

      i. Identified critical areas, buffers, and the development proposal with dimensions;

      ii. Limits of any areas to be cleared; and

      iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

   c. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

d. Identification and characterization of all critical areas within, or within 200' (two hundred feet) of, the project area or within any proposed buffer;

e. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;

f. An analysis of site development alternatives;

g. A description of reasonable efforts made to apply mitigation sequencing, as defined in these regulations, to avoid, minimize, and otherwise mitigate impacts to critical areas;

h. A mitigation plan as set forth in Section 16.18.410 of these regulations;

i. A discussion of the performance standards proposed to ensure that ecological functions of critical areas are protected and health and safety hazards associated with critical areas are precluded;

j. Financial guarantees proposed to ensure compliance with mitigation plan and performance standards; and

k. Any additional information required for specific critical areas as listed in subsequent sections of these regulations.

6. The Shoreline Administrator may request any other information reasonably deemed necessary to understand impacts to critical areas.

L. Administrative Review

1. Administrative Decisions: Where these regulations call for an Administrative Decision, the Shoreline Administrator shall submit his or her findings and preliminary decision to Town department heads or council members, as applicable and relevant state and federal agencies, for review at least 30 (thirty) days prior to making a final decision, and shall consider timely comments in making a final decision.

2. Agency Review: In any case in which the Shoreline Administrator does not have adequate knowledge or training to determine the sufficiency and accuracy of information contained within a critical areas report or mitigation plan (whether or not an Administrative Decision is involved), said report or plan shall be submitted to qualified agencies for review and recommendations prior to acceptance by the Town. Agency review should be completed within 90 (ninety) days of submittal to agency staff.

M. Surety/Bonding

1. If a development proposal is subject to mitigation, maintenance or monitoring plans, the Town, in a form acceptable to the Town Attorney, may require an assurance device or surety.

2. When mitigation required pursuant to a development proposal is not completed prior to the Town final permit approval, such as final plat approval

or final building inspection, the Town shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the Town. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the Town to ensure mitigation is fully functional.

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

4. The bond shall be in the form of an assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable to the Town attorney or other method acceptable to the Shoreline Administrator.

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

6. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

N. Appeals

1. Any decision of the Shoreline chapter may be appealed according to the provisions of Section 16.18.610, Appeals. Such appeal shall be in writing and must be submitted to the Town within ten days from the date of the decision.

**16.18.410 General Performance Standards**

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

B. General Performance Standards

1. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan.

2. Mitigation, when allowed, shall ensure that development activity does not yield a net loss of the area or function of the critical areas.

3. Mitigation Sequencing: Mitigation plans shall include a discussion of mitigation alternatives (sequencing) as they relate to mitigation sequencing provisions of Section 16.20.230, Environmental Protection.

4. Mitigation Plan: When mitigation is required, the applicant shall submit for approval of a mitigation plan as part of the critical area report. The mitigation plan shall include:

   a. A written report identifying mitigation objectives, including:

      i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of site compensation construction activities;

      ii. A review of the most current, accurate, and complete scientific or technical information available supporting the proposed mitigation and a description of the report authors professional qualifications.

      iii. An analysis of the likelihood of success of the compensation project.

   b. Measurable criteria for evaluating whether or not the objectives of the mitigation plan have been successfully attained and whether or not the requirements of this chapter have been met.

   c. Written specifications and descriptions of the mitigation proposed, including, but not limited to:

      i. The proposed construction sequence, timing, and duration;

      ii. Grading and excavation details;

      iii. Erosion and sediment control features;

      iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

      v. Measures to protect and maintain plants until established.

   d. A program for monitoring construction of the compensation project, and for assessing the completed project and its effectiveness over time. The program shall include a schedule for site monitoring and methods to be used in evaluating whether performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than 10 years.

   e. Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

f. Additional provisions as required for specific critical area types (e.g., wetlands, etc.)

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

a. Mitigation planting survival will be one hundred percent for the first year, and eighty percent for each of the four years following.

b. Mitigation must be installed no later than the next growing season after completion of site improvements, unless otherwise approved by the Shoreline Administrator.

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

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

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

f. Mitigation sites shall be maintained to ensure that the mitigation and management plan objectives are successful. Maintenance shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.

g. Prior to site development and or building permit issuance, a performance surety agreement shall be submitted by the applicant and shall be reviewed and approved by the Town, including the Town attorney. The surety agreement must include the complete costs for the

mitigation and monitoring which may include but not be limited to: the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and three monitoring visits and reports by a qualified professional biologist, including Washington state sales tax. The Town must approve the quote for said improvements.

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

C. Trails and Trail-related Facilities

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

a. Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas.

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

c. Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area.

d. All facilities shall be constructed with materials complementary to the surrounding environment.

e. Trail facilities that parallel the shoreline may be located in the outer twenty five percent of the buffer area.

i. Commercial and public trails shall not exceed ten feet in width.

ii. Private trails shall not exceed four feet in width.

f. Trails that provide direct shoreline access shall not exceed four feet in width and shall be kept to the minimum number necessary to serve the intended purpose.

g. Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this chapter.

h. Trail facilities shall not be exempt from special report requirements, as may be required by this chapter.

**16.18.420 Wetlands**

A. Designation

1. Wetlands are those areas, designated based on the definitions, methods and standards set forth in the currently approved Federal Wetland Delineation Manual and supplements. Wetland delineations are valid for 5 years, after such date the Town shall determine whether additional assessment is necessary. All areas within the Town meeting the wetland designation criteria in the Delineation Manual and supplements are hereby designated critical areas and are subject to the provisions of this Chapter.

2. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetlands Rating System for Eastern Washington (Annotated Version), Washington State Department of Ecology Publication No. #04-06-015, August 2004, Annotated March 2007; or as revised by Ecology. Other references for guidance and mitigations include Wetland Mitigation in Washington State – Parts 1 and 2, Washington Department of Ecology Publication #06-06-011a and b), March 2006),Wetlands in Washington State- Volume 1: A Synthesis of the Science. Washington State Department of Ecology. Publication #05-06-006; and Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008.

B. Classification

1. Wetland Rating Classes shall be as follows:

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

b. Category II Wetlands: Those wetlands scoring a “Category II” rating under the Ecology Wetlands Rating System;

c. Category III Wetlands: Those wetlands scoring a “Category III” rating under the Ecology Wetlands Rating System; and

d. Category IV Wetlands: Those wetlands scoring a "Category IV" rating under the Ecology Wetlands Rating System.

e. Irrigation-influenced Wetlands: Those wetlands that have resulted from Columbia Basin Project irrigation system development and irrigated agriculture and that are not intentionally created. These wetlands are to be classified per Wetland Rating Classes Categories I - IV.

f. Intentionally Created Artificial Wetlands: Wetlands and former wetland areas not regulated are those in4tentionally created artificial wetlands, or irrigation-influences wetlands that have dried up and are no longer functioning as a wetland due to changes in farming practices, or irrigation supply management and/or conservation measures.

C. Site Assessment Requirements for Wetlands

In addition to the information described in Section 16.12.400(K), the wetlands site assessment report shall include the following information:

1. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, soils, and vegetative characteristics of the wetland including US Army Corps delineation data sheets as applicable.

2. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses including references.

3. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 200 feet of the project boundaries using the best available information.

4. For each wetland identified on-site and within 200 feet of the project site provide: the wetland rating per Wetland Ratings; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.

5. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative.

6. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.

7. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.

8. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

9. An evaluation of the functions of the wetland and adjacent buffer.

10. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

    a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);

    b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

D. Alteration and Impacts of Wetlands

1. A regulated wetland or its required buffer can only be altered if the wetlands site assessment pursuant to Section 16.18.420 (C) shows that the proposed alteration does not degrade the quantitative and qualitative functioning of the wetland, or any degradation can be adequately mitigated to protect the wetland function, and maintain no net loss of wetland functions and values as a result of the overall project. Any alteration approved pursuant to this Section shall include mitigation necessary to mitigate the impacts of the proposed alteration on the wetland as described in Section 16.18.420 (E) below.

2. The following activities are regulated if they occur in a regulated wetland or its buffer:

    a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.

    b. The dumping of, discharging of, or filling with any material.

    c. The draining, flooding, or disturbing the water level or water table.

    d. Pile driving.

    e. The placing of obstructions.

    f. The construction, reconstruction, demolition, or expansion of any structure

    g. Activities that result in:

i. A significant change in water temperature.

ii. A significant change of physical or chemical characteristics of the sources of water to the wetland.

iii. A significant change in the quantity, timing or duration of the water entering the wetland.

iv. The introduction of pollutants

3. Storm water discharge: Storm water discharges to wetlands shall be controlled and treated to provide all known and reasonable methods of prevention, control, and treatment as mandated in the State Water Quality Standards, Chapter 173-201A WAC, as required by state law, and consistent with the Ecology Stormwater Manual for Eastern Washington. Changes in hydrology that negatively impact functions of a wetland shall not be permitted, except for intentionally created artificial wetlands, or irrigation influences wetlands that have been modified so that it no longer has wetland characteristics due to changes in farming practices or irrigation supply management and/or conservation measrues. Potential changes may include, but not be limited to, flooding of plant communities resulting in changes in composition, flooding of nests, or associated drawdowns that dehydrate nests, particularly amphibian eggs.

4. Exceptions to Mitigation Requirements: Requirements for mitigation do not apply under the following circumstances:

a. When a wetland alteration is intended exclusively for the enhancement, rehabilitation or restoration of an existing regulated wetland and the proposal will not result in a loss of wetland function and value, subject to the following conditions:

i. The enhancement or restoration project shall not be associated with a development activity; and

ii. An enhancement or restoration plan shall be submitted for site plan review. The restoration or enhancement plan must include the information required under Section 16.18.420 (C).

iii. When an artificial wetland is intentionally created from a non-wetland site, or a former irrigation influences wetland was modified so that it no longer has wetland characteristics due to changes in farming practices or irrigation supply management and/or conservation measures

E. Development Standards

1. Lights shall be directed away from the wetland.

2. Activities that generate noise shall be located away from the wetland, or noise impacts shall be minimized through design or insulation techniques.

3. Toxic runoff from new impervious surface area shall be directed away from wetlands.

4. Treated storm water runoff may be allowed into wetland buffers. Channelized flow should be prevented.

5. Use of pesticides, insecticides, and fertilizers within one hundred fifty feet of wetland boundary shall be limited and follow Best Management Practices (BMPs).

6. The outer edge of the wetland buffer shall be planted with dense native vegetation and/or fencing to limit pet and human disturbance.

7. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the proposed land use (Table 16.18.420 (E)(7)-1) and the wetland category (Table 16.18.420 (E)(7)- 2).

**Table 16.18.420 (E)(7)-1. Land Use Intensity Table**

| Level of Impact from Proposed Change in Land Use | Types of Land Use Based on Common Zoning Designations |
|---|---|
| High | • Commercial<br>• Urban<br>• Industrial<br>• Institutional<br>• Retail sales<br>• Residential (more than 1 unit/acre)<br>• High-intensity recreation (golf courses, ball fields, etc.) |
| Moderate | • Residential (1 unit/acre or less)<br>• Moderate-intensity open space (parks with biking, jogging, etc.)<br>• Paved driveways and gravel driveways serving 3 or more residences<br>• Paved trails |
| Low | • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)<br>• Timber management<br>• Gravel driveways serving 2 or fewer residences<br>• Unpaved trails<br>• Utility corridor without a maintenance road and little or no vegetation management. |

**Table 16.18.420 (E)(7)-2. Buffer Widths**

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| ***ategory IV Wetlands (For wetlands scoring less than 30 points or more for all functions)*** | | |
| Score for all 3 basic functions is less than 30 points | Low – 25 ft<br>Moderate – 40 ft<br>High – 50 ft | No recommendations at this time |
| ***Category III Wetlands (For wetlands scoring 30-50 points or more for all functions)*** | | |

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| Moderate level of function for habitat (score for habitat 20-28 points) | Low – 75ft<br>Moderate – 110ft<br>High – 150 ft | No recommendations at this time |
| Not meeting above characteristic | Low – 40 ft<br>Moderate – 60 ft<br>High – 80 ft | No recommendations at this time |
| ***Category II Wetlands (For wetlands that score 51-69 points or more for all functions or having the "Special Characteristics" identified in the rating system)*** | | |
| High level of function for habitat (score for habitat 29-36 points) | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft[2] | Maintain connections to other habitat areas. |
| Moderate level of function for habitat (score for habitat 20-28 points) | Low – 75ft<br>Moderate – 110ft<br>High – 150 ft | No recommendations at this time |
| High level of function for water quality improvement and low for habitat (score for water quality 24-32 points; habitat less than 20 points) | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No additional surface discharges of untreated runoff |
| Riparian forest | Buffer width to be based on score for habitat functions or water quality functions | Riparian forest wetlands need to be protected at a watershed or subbasin scale<br><br>Other protection based on needs to protect habitat and/or water quality functions |
| Not meeting above characteristic | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No recommendations at this time |
| Vernal Pool | Low - 100 ft<br>Moderate - 150 ft<br>High - 200 ft<br><br>Or develop a regional plan to protect the most important vernal pool complexes – buffers of vernal pools outside protection zones can then be reduced to:<br>Low – 40 ft<br>Moderate - 60 ft<br>High – 80 ft | No intensive grazing or tilling of wetland |
| ***Category I Wetlands (For wetlands that score 70 points or more for all functions or having the "Special Characteristics" identified in the rating system)*** | | |
| Natural Heritage Wetlands | Low – 125 ft<br>Moderate – 190 ft<br>High – 250 ft | No additional surface discharges to wetland or its tributaries.<br>No septic systems within 300 ft of wetland.<br>Restore degraded parts of buffer. |
| High level of function for habitat (score for habitat 29-36 points) | Low – 100 ft<br>Moderate – 150 ft<br>High – 200 ft | Restore degraded parts of buffer.<br>Maintain connections to other habitat areas |

| Wetland Characteristics | Buffer Width by Impact of Proposed Land Use | Other Measures Recommended for Protection |
|---|---|---|
| Moderate level of function for habitat (score for habitat 20-28 points) | Low – 75ft<br>Moderate – 110ft<br>High – 150 ft | No recommendations at this time |
| High level of function for water quality improvement (24-32 points) and low for habitat (less than 20 points) | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No additional surface discharges of untreated runoff |
| Not meeting above characteristics | Low – 50 ft<br>Moderate – 75 ft<br>High – 100 ft | No recommendations at this time |

8. Wetland buffer zones shall be retained in their natural condition. Wetland buffers shall not be mowed. Where buffer disturbances are unavoidable during adjacent construction, re-vegetation with native plan materials will be required.

9. Standard buffer widths shall be measured on the horizontal from the wetland boundary as surveyed in the field. Standard buffer widths may be modified by the review authority for a development proposal by averaging buffer widths based on a report submitted by the applicant and prepared by a qualified professional approved by the Shoreline Administrator (e.g. wetland biologist), and shall only be allowed where the applicant demonstrates all of the following:

   a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;

   b. The designated wetland contains variations in sensitivity due to existing physical characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area;

   c. The width averaging will not adversely impact the designated wetland’s functional value;

   d. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging; and

   e. The buffer at its narrowest point is never less than three-quarters of the required width.

10. Mitigation ratios shall be used when impacts to wetlands cannot be avoided. The mitigation ratios by wetland type are an area replacement ratio of:

## Table 16.18.420 (E)(10): Mitigation ratios for eastern Washington

| Category and Type of Wetland Impacts | Re-establishment or Creation | Rehabilitation Only[1] | Re-establishment or Creation (R/C) and Rehabilitation (RH)[1] | Re-establishment or Creation (R/C) and Enhancement (E)[1] | Enhancement Only[1] |
|---|---|---|---|---|---|
| All Category IV | 1.5:1 | 3:1 | 1:1 R/C and 1:1 RH | 1:1 R/C and 2:1 E | 6:1 |
| | | | | | |
| All Category III | 2:1 | 4:1 | 1:1 R/C and 2:1 RH | 1:1 R/C and 4:1 E | 8:1 |
| | | | | | |
| Category II Forested | 4:1 | 8:1 | 1:1 R/C and 4:1 RH | 1:1 R/C and 6:1 E | 16:1 |
| Category II Vernal Pool | 2:1 Compensation must be seasonally ponded wetland | 4:1 Compensation must be seasonally ponded wetland | 1:1 R/C and 2:1 RH | Case-by-case | Case-by-case |
| All other Category II | 3:1 | 6:1 | 1:1 R/C and 4:1 RH | 1:1 R/C and 8:1 E | 12:1 |
| | | | | | |
| Category I Forested | 6:1 | 12:1 | 1:1 R/C and 10:1 RH | 1:1 R/C and 20:1 E | 24:1 |
| Category I based on score for functions | 4:1 | 8:1 | 1:1 R/C and 6:1 RH | 1:1 R/C and 12:1 E | 16:1 |
| Category I Natural Heritage site | Not considered possible2 | 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 possible2 | 6:1 Rehabilitation of an alkali wetland | R/C Not considered possible[2] | R/C Not considered possible[2] | Case-by-case |
| Category I Bog | Not considered possible[2] | 6:1 Rehabilitation of a bog | R/C Not considered possible[2] | R/C Not considered possible[2] | Case-by-case |

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

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

**Reference:**

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

11. Water dependent uses, as defined in this Chapter, may be located within a wetland or wetland buffer when the applicant or property owner can demonstrate compliance with Section 16.18.410, General Performance Standards.

    a. Developments authorized within a wetland buffer shall comply with the following minimum standards:

        i. Designated wetlands and their associated buffers shall be delineated and disclosed on final plats, maps, documents, etc., as critical area tracts, non-buildable lots, buffer areas or common areas. Ownership and control may be designated as an easement or covenant encumbering the property.

        ii. All lots within a major subdivision, short plat or binding site plan shall have the outer edge of all required buffers clearly marked on site with permanent buffer edge markers. Buffer markers may be either buffer signs or steel posts painted with a standard color and label, as approved by the Shoreline Administrator. The markers shall be field verified by the surveyor or biologist of record prior to final plat approval. Each lot shall contain a minimum of three buffer area markers located at the landward edge of the buffer perimeter for each habitat type; one located at each side property line and one midway between side property lines. Covenants for the subdivision shall incorporate a requirement stating that buffer area markers shall not be removed, or relocated, except as a may be approved by the Shoreline Administrator.

12. The following activities are allowed to occur in wetlands and wetland buffer zones subject to conditioning with appropriate best management practices to minimize impacts on the functions and values of wetlands:

    a. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

    b. Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:

        i. Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.

        ii. Wildlife-viewing structures

    c. Educational and scientific research activities

d. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

e. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

f. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

g. Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

13. Storm water management facilities shall be allowed within the outer 25% of a wetland buffer around Category III or IV wetlands, provided that no other location is feasible and that the location of such facilities will not degrade the functions of the wetland or its buffer. All projects shall comply with the applicable federal, state and local regulations regarding the species

14. As a condition of any permit or authorization pursuant to these regulations, the Shoreline Administrator may require temporary or permanent signs and/or fencing along the perimeter of a wetland or buffer in order to protect the functions and values of the wetland, or to minimize future impacts or encroachment upon the wetland or buffer.

15. Wetland alteration proposals shall be approved only if no alternative is available. If alteration is unavoidable, all adverse impacts shall be mitigated as set forth in an approved Critical Areas Report and mitigation plan.

16. When feasible, mitigation shall be on-site and sufficient to maintain the functions and values of the wetland and buffer areas. If on-site mitigation is not feasible, then the applicant shall demonstrate that the mitigation site is the

nearest that can reasonably achieve the goals of mitigation with a high likelihood of success.

17. As determined through the site-specific study, mitigation measures shall be implemented that maintain the functions and values found in the particular wetland.

18. As determined through the site-specific study, appropriate mitigation, management and monitoring plan(s) shall be developed and implemented, with any necessary surety to ensure compliance with such plan(s) being provided as described herein above.

19. A legally established use or structure established prior to the effective date of the ordinance codified in this chapter which does not conform to standards set forth herein is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

F. Wetland Management and Mitigation Plan

1. Compensatory Mitigation Plan. Where mitigation is required pursuant to Section 16.18.410, the applicant shall prepare a Mitigation Plan. The Mitigation Plan shall follow the general requirements described herein below and Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), Washington Department of Ecology (Publication #06-06-011b, March 2006 or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Eastern Washington) (Publication #10-06-07, November 2010, or as revised). The following items at a minimum are required as part of a mitigation plan:

a. Description of project or activity, including a detailed narrative describing the project or activity, its relationship to the wetland and its potential impact to the wetland; and

b. Any proposed mitigation, including a discussion of how the project has been designed to avoid and minimize adverse impacts to wetlands, as well as the necessary monitoring and contingency actions for the continued maintenance of the wetland and its associated buffer.

c. A report which includes, but is not limited to:

i. Location maps

ii. A site map prepared at a scale no smaller than one inch = 200 feet indicating the boundaries of the identified wetlands; the width and length of all existing and proposed structures, utilities, roads, easements; wastewater and stormwater management facilities; adjacent land uses, zoning districts, and comprehensive plan designations;

iii. A description of the vegetation in the wetland, on the overall project site, and adjacent to the site. A description of the existing wetland and buffer areas proposed to be impacted;

iv. A discussion of any federal, state, or local wetland-related permits required for the project;

v. A discussion of the following mitigation alternatives as they relate to the proposal:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

D. Compensating for functions affected by the proposed project, with the intention to achieve functional equivalency or improvement of functions.

d. Include a description of the compensatory mitigation site, including location and rationale for selection. Describe how preferred order of wetlands mitigation was followed: 1) restoration (including reestablishment and rehabilitation), 2) creation (establishment), 3) enhancement in combination with restoration or creation, and 4) preservation of high-quality, at risk wetlands. Include an assessment of existing conditions and estimate future conditions if actions are not undertaken. Describe the proposed actions for compensating wetland and upland areas affected by the project. Include the overall goals of the proposed mitigation, including targeted functions. Describe the proposed mitigation construction activities and timing of activities, along with a detailed discussion of ongoing management and monitoring practices which will protect the wetland after the project site has been fully developed, including proposed monitoring, contingency, maintenance and surety programs; and

e. Proposed mitigation ratios, including a discussion of functions and values of and the variety of habitats provided by the proposed replacement wetland. To more fully protect functions and values, and as an alternative to the mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II" (Ecology Publication #06-06-011a-b, Olympia, WA, March, 2006), the Shoreline Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as revised).

**16.18.430 Critical Aquifer Recharge Area**

A. Classification

1. Critical potential: Wellhead protection areas, streams, wetlands, and any other lands that have been specifically identified as critical recharge areas based on reliable scientific data.

2. High potential: Areas in which soils show permeability ratings of more than 20 inches per hour.

B. Development standards.

1. Development activities within an aquifer recharge area shall be designed, developed and operated in a manner that will not potentially degrade groundwater resources nor adversely affect the recharging of the aquifer.

2. All new development shall comply with the following requirements:

a. Applicable water source protection regulations set forth by the United States Environmental Protection Agency, the Washington State Department of Ecology, the Washington State Department of Health, or the Grant County Health District.

b. Applicable ground water management area (GWMA) regulations;

c. Applicable regulations set forth by any Irrigation Districts regulated by the United States Department of Interior, Bureau of Reclamation (BOR).

d. State requirements regarding protection of upper aquifer zones and ground water quality (Chapter 173-154 and 173-200 WAC, respectively).

e. The Stormwater Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, or as revised) shall provide the preferred guidance for stormwater best management practices.

3. A hydrogeologic study and/or ongoing monitoring may be required to assess impacts of development activities on groundwater resources.

4. All proposed activities within aquifer recharge areas must comply with the water source protection requirements of the federal Environmental Protection Agency, State Department of Health and the Grant County health district.

5. On-site stormwater facilities shall be designed and installed in all aquifer recharge areas, so as to provide both detention and treatment of all runoff associated with the development.

6. All development occurring within aquifer recharge areas shall be required to connect to Town sewer and water, and on-site sewage disposal shall be prohibited.

7. Landfills, junkyards/salvage yards, mining, wood treatment facilities, or any other activity that could impair the recharge of critical aquifer recharge areas. Such activities may be permitted in areas with high or moderate recharge potential in accord with applicable zoning regulations, providing the applicant

can satisfactorily demonstrate that potential negative impacts to groundwater can be prevented.

8. All storage tanks, whether above or underground, shall be required to be constructed so as to protect against corrosion for the operational life of the tank, to prevent any release of hazardous substances to the ground, ground waters, or surface waters, and to utilize appropriate containment methods.

9. Any agricultural activities conducted within aquifer recharge areas shall incorporate best management practices concerning waste disposal, fertilizer/pesticide/herbicide use, and stream corridor management. If necessary applicants shall seek technical assistance from the Grant County conservation district or the WSU cooperative extension office.

10. Application of pesticides, herbicides and fertilizers within aquifer recharge areas shall comply with timing and rates specified on product packaging.

11. Vehicle repair and servicing activities must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

C. Critical Area Report Requirements

1. In addition to the general requirements for Critical Areas Reports, a Critical Areas Report for development activities within or adjacent to an aquifer recharge area shall contain the following:

a. A scaled development plan showing the recharge areas;

b. Detailed information on the following items:

i. Hydrogeological susceptibility to contamination and contaminant loading potential;

ii. Depth to ground water;

iii. Hydraulic conductivity and gradient;

iv. Soil texture, permeability, and contaminant attenuation potential.

c. Vadose zone analysis, including implications of permeability and attenuation properties;

d. An analysis of the recharge area's toleration for impervious surfaces in terms both of aquifer recharge and the effect on water quality; and

e. A summary of the proposed development's effect on the recharge area.

2. When a proposed use presents a high risk of drinking water contamination, a hydrogeologic assessment shall be required.

a. A hydrogeologic assessment shall be required for the following land uses:

i. Hazardous substance processing and handling.

ii. Hazardous waste treatment and storage facility.

iii. Wastewater treatment plant sludge disposal.

iv. Solid waste disposal facility.

b. A required hydrogeologic assessment shall be submitted by a hydrogeologist licensed by the state of Washington. The hydrogeologic assessment shall use scientifically valid methods and studies to establish existing (baseline) water quality and shall be used to develop conditions of approval to ensure that the proposed development will not contribute contaminants or facilitate degradation of recharge areas. In addition to the information required in all critical areas reports, the assessment shall include, at a minimum:

i. Pertinent well log and geologic data.

ii. Ambient groundwater quality.

iii. Groundwater elevation.

iv. Recharge potential of facility site.

v. Current data on wells and any springs located within one thousand feet (1,000') of the facility.

vi. Surface water location and potential recharge.

vii. Water supply source for the facility.

viii. Analysis and discussion of the effects of the proposed project on the groundwater resource.

c. A required hydrogeologic assessment must demonstrate that the proposed use does not present a threat of contamination to the aquifer system. Successful demonstration of those findings warrants approval under this section.

d. Ongoing monitoring of uses that present high risk of drinking water contamination may be required to assess impacts of development activities on groundwater resources.

## 16.18.440 Fish and Wildlife Habitat Conservation Areas

A. Classification

1. Fish and wildlife habitat conservation areas include those with the following characteristics:

a. Federally designated endangered, threatened and sensitive species. Areas with which federally designated endangered, threatened and sensitive species have a primary association. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened

to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

b. State designated endangered, threatened and sensitive species. Areas with which state designated endangered, threatened and sensitive species have a primary association.

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

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

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

f. All areas within the Town meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to the provisions of this Chapter.

B. Development Standards

1. Flora (plant life) and Fauna (animal life) identified as protected, shall be sheltered from construction activities using Best Management Practices.

2. Habitat conservation areas and buffers will be left undisturbed, unless the development proposal demonstrates that impacts to the habitat conservation area and/or buffer are unavoidable, demonstrated in a habitat management and mitigation plan described in Section 16.18.440 (C).

3. Critical area reports for fish and wildlife habitat conservation areas shall include a habitat assessment to evaluate the presence or absence of a potential critical species or habitat.

4. The Washington State Department of Fish and Wildlife priority habitat and species management recommendations shall be consulted in developing specific measures to protect a specific project site.

5. All projects shall comply with the applicable federal, state and local regulations regarding the species and habitats identified to be upon a site.

6. Establishment of Buffers. When needed to protect the functions and values of habitat conservation areas, the Shoreline Administrator shall require the establishment of buffer areas for activities in or adjacent to such areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration. Buffer widths shall reflect the sensitivity of the habitat and the intensity of activity proposed, and shall be consistent with the management recommendations issued by the State Department of Fish and Wildlife.

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

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

9. Habitat Conservation Areas:

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

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

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

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

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

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

**Table 16.18.440 (B)(9)(f). Riparian Buffer Width**

| Environment Designation | Riparian Buffer Width |
|---|---|
| Rural Conservancy | 65 |
| High Intensity Ag Industrial | 65 |

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

[2] Accompanied by other critical area protections, and stormwater management measures, as applicable

C. Administrative Buffer Width Averaging

1. The required buffer widths established in this SMP may be modified by the Shoreline Administrator for a development on existing legal lots of record in place at the time of adoption of this Program, in accordance with the provisions of this section only where the applicant demonstrates all of the following:

a. Averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;

b. The designated buffer area contains variations in sensitivity to ecological impacts due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;

c. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;

d. The minimum buffer width at its narrowest point shall not be less than thirty five (35) percent of the buffer width established under this SMP; and

e. The buffer width averaging does not result in a net loss of ecological function

D. Shoreline Buffer Reductions. Shoreline buffers may be administratively modified where a legally established road or other type of continuous development crosses or extends along a shoreline or critical area buffer and is wider than 20 feet. The Shoreline Administrator may approve a modification of the minimum required buffer width to the waterward edge of the improved continuous development provided the upland side of the continuous development areas outlined below:

1. Does not provide additional protection of the shoreline water body or stream; and

2. Provides little (less than 20%) to no biological, geological or hydrological buffer functions relating to the riparian and upland portions of the buffer

E. Standard Buffer Reduction. Reductions of up to thirty-five (35) percent of the standard buffer may be approved if the applicant demonstrates to the satisfaction of the Shoreline Administrator that a mitigation plan developed by a qualified professional pursuant to Section 16.18.420 (F) indicates that enhancing the buffer (by removing invasive plants or impervious surfaces, planting native vegetation, installing habitat features or other means) will result in a reduced buffer that functions at a higher level than the existing standard buffer.

F. Fish/Wildlife Habitat Management and Mitigation Plan

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

2. In determining the extent and type of mitigation appropriate for the development, the plan shall evaluate the ecological processes that affect and influence critical area structure and function within the water shed or sub-basin; the individual and cumulative effects of the action upon the functions of the critical area and associated watershed; and note observed or predicted trends regarding specific wetland types in the watershed, in light of natural and human processes.

3. The fish/wildlife habitat management and mitigation plan shall demonstrate, when implemented, no net loss of ecological functions of the habitat conservation area and buffer.

4. 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.

5. Mitigation for development may include a sequenced combination of the mitigation measures included in Section16.18.410, General Performance Standards, as needed to achieve the most effective protection or compensatory mitigation for critical area functions.

6. Mitigation Ratios.

a. Mitigation ratios shall be used when impacts to riparian areas, aquatic habitat, and riparian buffers are unavoidable. Compensatory mitigation shall restore, create, rehabilitate or enhance equivalent or greater ecological functions. Mitigation shall be located onsite unless the biologist can demonstrate, and the Town approves that onsite mitigation will result in a net loss of ecological functions. If offsite mitigation measures are determined to be appropriate, offsite mitigation shall be located in the same watershed as the development within Town.

b. The onsite mitigation ratio shall be at a minimum area replacement ratio of 1:1 for development within aquatic habitat, riparian areas and riparian buffers. An area replacement ratio of 2:1 shall apply to native vegetation removal within these areas. Mitigation for diverse, high

quality habitat or offsite mitigation may require a higher level of mitigation. Mitigation and management plans shall evaluate the need for a higher mitigation ratio on a site by site basis, dependent upon the ecological functions and values provided by the habitat. Recommendations by resource agencies in evaluating appropriate mitigation shall be encouraged.

**16.18.450 Geologically Hazardous Areas**

A. Classification and Designation

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

a. Erosion Hazard Areas: Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Erosion hazard areas are also those areas impacted by shore land and/or stream bank erosion and those areas within a river's channel migration zone. Erosion hazard areas are those that contain all three of the following characteristics:

i. A slope of 30 percent or greater;

ii. Soils identified by the Soil Conservation Service as unstable and having a high potential for erosion; and

iii. Areas that are exposed to the erosion effects of wind or water.

b. Landslide Hazard Areas: Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Landslide hazard areas are those that may contain any of the following circumstances:

i. All areas that have historically been prone to landsliding;

ii. All areas containing soil types identified by the Natural Resource Conservation Service (NRCS) as unstable and prone to landslide hazard;

iii. All areas that show evidence of or are at risk from snow avalanches; or

iv. All areas that are potential unstable as a result of rapid stream incision or stream bank erosion.

c. Seismic Hazard Areas: Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

d. Mine Hazard Areas: Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

e. Volcanic Hazard Areas: Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity

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

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

B. Development Standards

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

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

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

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

b. Will not adversely impact other critical areas;

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

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

4. Mitigation plans for geologically hazardous areas shall establish setbacks and buffer widths as needed to eliminate or minimize risks of property damage,

death, or injury resulting from development of the hazard area. Where established, buffers shall be maintained between all permitted uses and activities and the designated geologically hazardous area(s).

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

6. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited. Where removal of vegetation is unavoidable, reseeding and replanting with native vegetation shall be preferred. In lieu of a native restoration planting an erosion control mix recommended by the Natural Resource Conservation Service, the Grant County Conservation District, the WSU Cooperative Extension Office, or other qualified agent to assist in stabilization of the areas and to discourage establishment of invasive plants may be substituted.

7. As determined through the site-specific study, appropriate drainage, grading, excavation and erosion control measures shall be implemented in the geologically hazardous area(s).

8. Every Erosion Hazard Area mitigation plan shall include a run-off management plan or an erosion control plan to reduce sedimentation problems.

9. Development and activities located within landslide or erosion hazard areas shall provide for long-term slope stability, and design shall incorporate the following standards:

   a. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography;

   b. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

   c. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

   d. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and

   e. Development shall be designed to minimize impervious lot coverage.

10. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available.

11. Subdivision of lands in erosion, landslide, and mine hazard areas is subject to the following:

   a. Land that is located wholly within an erosion, landslide or mine hazard area or its buffer may not be subdivided. Land that is located partially

within an erosion, landslide or mine hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the geologic hazard area.

b. Access roads and utilities may be permitted within the erosion, landslide or mine hazard area and associated buffers only if no other feasible alternative exists.

12. As determined through the site-specific study, mitigation measures shall be implemented that maintain the integrity of the geologically hazardous area(s).

13. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided as described herein above.

14. A use or structure established prior to the effective date of this chapter which does not conform to standards set forth herein, is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity.

15. Additional Considerations

a. Site specific considerations may warrant additional performance standards, to be determined during the permit process, to ensure the protection of critical areas.

b. Development specific considerations may warrant additional performance standards based on level of impact to critical areas.

**16.18.460 Frequently Flooded Areas**

A. Classification

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

B. Maps and References

1. The Shoreline Administrator shall use the following maps and references to assist in making a Determination pursuant to Section 16.18.400 (I):

   a. FEMA Flood Insurance Rate Maps (FIRM), most current available.

   b. Maps and reference documents in the Grant County SMP Inventory, Analysis, and Characterization report, as applicable.

   c. CMZ mapping developed as part of the 2013 SMP update, noting applicants for shoreline development or modification may submit a site-specific channel migration zone study if they believe these conditions do not exist on the subject property and the map is in error. The CMZ study must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. The CMZ must be prepared by a licensed geologist or engineer with at least five years of applied experience in assessing fluvial geomorphic processes and channel response.

      i. Channel migration zone maps prepared consistent with WAC 173-26-221(3)(b) are included in Grant County's SMP Inventory, Analysis, and Characterization report. These maps provide complete coverage of waterbodies in Grant County that have potential for channel migration. The responsible local government shall utilize these maps in shoreline application reviews.

      ii. Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they do not agree with the mapping in Grant County's SMP Inventory, Analysis, and Characterization report.

C. Development Standards

1. In addition to the general provisions of these regulations and the requirements of the underlying zoning district, the following minimum standards shall apply to development activities within and adjacent to frequently flooded areas:

   a. All development within frequently flooded areas shall comply with the Section 16.18.270, Flood Hazard Areas, regarding structural safeguards to reduce risk to human life, health and property from flooding, and other pertinent ordinances and codes.

   b. Any use or development shall not alter the normal movement of surface water in a manner that would cause the unnatural diversion of floodwater to otherwise flood-free areas.

   c. The Upper Crab Creek CMZ shall be regulated as floodway consistent with Section 16.18.270, Flood Hazard Reduction, and the Grant County Flood Damage and Prevention Ordinance (GCC 24.16).

i. Documentation of alternate channel migration zone boundaries must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial photographs, topographic mapping, flooding records, and field verification. (based on WAC 173-26-221(3)(b)) and comments by U.S. Fish and Wildlife Service).

d. Where Frequently Flooded Areas coincide with other designated critical areas, critical areas reports and mitigation plans shall address any combined functions and values.

e. Filling and grading in Frequently Flooded Areas shall occur only upon a determination by a qualified professional that the filling or grading will not increase flood hazards to others.

f. Subdivision in Frequently Flooded Areas is subject to the following standards:

i. All lots created shall have adequate building space outside flood hazard areas, including the floodway, 100-year floodplain, and channel migration zones;

ii. Plat maps shall indicate the floodway and the 100-year floodplain;

iii. Subdivisions shall be designed to minimize or eliminate the potential for flood damage; and

iv. Subdivisions shall provide for storm water drainage, in accordance with town standards, so as to reduce exposure to flood hazards.

g. Bank Stabilization Projects: Where consistent with other regulations and with the Flood Hazard Reduction Plan, protection of structures, public roadways or sole access routes in existence before the effective date of this chapter shall be allowed. Such projects shall be designed to minimize adverse impacts to property, public improvements, and ecological functions.

h. Utilities shall be located above the Base Flood Elevation (BFE), preferably three or more feet.

i. All new construction and substantial improvements shall be constructed using flood resistant materials and using methods and practices that minimize flood damage.

j. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

k. No rise in the BFE shall be allowed. Post and piling techniques are preferred and are presumed to produce no increase in the BFE.

l. Modification of stream channels shall be avoided.

### 16.18.470 Existing Structures and Development

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

### 16.18.480 Warning and Disclaimer of Liability

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

## Article VI. Administration and Enforcement

### 16.18.500 Roles and Responsibilities

A. Shoreline Administrator

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

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

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

4. The Shoreline Administrator shall apply Section 16.18.400, General Provisions for shoreline critical areas.

B. Hearing Examiner

1. The Hearing Examiner may grant or deny Shoreline Variances and Shoreline Conditional Use Permits, following an open record hearing pursuant to WCMC 16.21.020.

C. Town Council. The Town Council is vested with authority to:

1. Decide on appeals from administrative decisions issued by the Town's Shoreline Administrator pursuant to WCMC 16.21.060.

2. Initiate an amendment to this SMP according to the procedures prescribed in WAC 173-26-100.

3. Adopt all amendments to this SMP. Substantive amendments shall become effective immediately upon adoption by Ecology.

### 16.18.510 Interpretation

A. Under the administrative provisions, the Shoreline Administrator shall have authority to interpret this SMP when such interpretation is clearly consistent with the goals and policies of this SMP and the SMA.

B. The Town shall consult with Ecology if formal written interpretations are developed as a result of a lack of clear guidance in the Act, the SMP Guidelines, or this Master Program to ensure that any are consistent with the purpose and intent of Chapter 90.58 and 173-26 WAC.

### 16.18.520 Statutory Noticing Requirements

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

### 16.18.530 Application Requirements

A. A complete application for a Shoreline Substantial Development, Shoreline Conditional Use, or Shoreline Variance Permit shall contain, at a minimum, the information listed in WAC 173-27-180.

B. The Shoreline Administrator shall provide written informational materials, procedures, instructions, and forms, required to submit an application for a shoreline substantial development permit, variance, or conditional use permit.

C. These materials should include but are not limited to a plan cover sheet; a Joint Aquatic Resource Permits Application (JARPA) form; SEPA checklist; fee schedule; review criteria; process and timelines to assist potential applicants and interested parties on the permit application submittal and review process.

D. The Shoreline Administrator may vary or waive these requirements according to administrative application requirements on a case-by-case basis.

E. The Shoreline Administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other requirements, and the provisions of this SMP.

### 16.18.540 Shoreline Substantial Development Permits

A. A Shoreline Substantial Development Permit shall be required for all development on shorelines, unless the proposal is specifically exempted per Section 16.18.570, Shoreline Substantial Development permits shall be processed as set forth in the Town's Code Section 16.21.050, Review and Approval Process and Section 16.18.600 of this Chapter.

B. A Shoreline Substantial Development Permit shall be granted only when the development proposed is consistent with:

1. The policies and procedures of the Act, RCW 90.58;
2. The applicable provisions of WAC 173-27; and
3. This SMP.

C. The Town may attach conditions to the approval of permits as necessary to assure consistency of the project with the SMA and this SMP.

D. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

**16.18.550 Shoreline Conditional Use Permits**

A. Uses specifically classified or set forth in this SMP as conditional uses shall be subject to review and condition by the Shoreline Administrator and by Ecology. Applications for a Shoreline Conditional Use Permit (SCUP) shall be processed as set forth in the Town's Code Section 16.21.050, Review and Approval Process, Section 16.21.010, Permit Review Procedures, and Section 16.18.600 of this Chapter.

B. Other uses which are not classified or listed or set forth in this SMP may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this SMP.

C. Uses which are specifically prohibited by this SMP may not be authorized as a conditional use.

D. Review Criteria for SCUP. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

2. That the proposed use will not interfere with the normal public use of public shorelines;

3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

5. That the public interest suffers no substantial detrimental effect.

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

F. In authorizing a conditional use, special conditions may be attached to the permit by the Town or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and this SMP.

G. Nothing shall interfere with the Town's ability to require compliance with all other applicable plans and laws.

**16.18.560 Shoreline Variance Permits**

A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this SMP where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this SMP would impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Variances from the use regulations of the SMP are prohibited. Applications for Shoreline Variance Permits shall be processed with procedure as set forth in Town's Code Section 16.21.050 Review and Approval Process, Section 16.21.010, Permit Review Procedures, and Section 16.18.600 of this Chapter.

B. Review Criteria

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

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

a. That the strict application of the bulk, dimensional or performance standards set forth in the SMP precludes, or significantly interferes with, reasonable use of the property;

b. That the hardship described in criterion 16.18.560 (B)(2)(a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the SMP, and not, for example, from deed restrictions or the applicant's own actions;

c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and SMP and will not cause adverse impacts on the shoreline environment;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

3. Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW 90.58.030(2)(b), or within any wetland as

defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:

a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

b. That the proposal is consistent with the criteria established under Section 16.18.560 (B)(2) (a)-(f) above can be met; and

c. That the public rights of navigation and use of the shorelines will not be adversely affected.

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

**16.18.570 Exemptions from Shoreline Substantial Development Permits**

A. An exemption from the Shoreline Substantial Development Permit process is not an exemption from compliance with the SMA or this SMP, or from any other regulatory requirements. 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.

B. Letters of exemption shall be issued by the Town when an exemption applies or when a letter of exemption is required by the provisions of WAC 173-27-050 and as follows:

1. Any person claiming exemption from the substantial development permit requirements shall make an application to the Shoreline Administrator for such an exemption in the manner prescribed by the Shoreline Administrator, except that no written statement of exemption is required for emergency development pursuant to WAC 173-27-040(2)(d)

2. The Shoreline Administrator is authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 16.18.570 (D). The statement shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development, and shall provide a summary of the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.

3. Statements of exemption may contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of this Program and the Act.

4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The Shoreline Administrator's decision on a statement of exemption is not subject to administrative appeal.

5. Exempt activities shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator.

C. Interpretations of Exemptions

1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the Shoreline Substantial Development Permit process.

2. A development or use that is listed as a conditional use pursuant to this SMP or is an unlisted use, must obtain a Shoreline Conditional Use Permit even though the development or use does not require a Shoreline Substantial Development Permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this SMP, such development or use can only be authorized by approval of a Shoreline Variance.

3. The burden of proof that a development or use is exempt from the permit process is on the applicant.

4. If any part of a proposed development is not eligible for exemption, then a Shoreline Substantial Development Permit is required for the entire proposed development project.

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

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

1. Any development of which the total cost or fair market value does not exceed six thousand, four hundred, fourteen dollars ($6,414.00) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed, or found labor, equipment or materials.

2. Normal maintenance or repair of existing legally-established structures or developments, including damage by accident, fire, or elements. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or

development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

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

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

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or

filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities.

6. Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence or appurtenance for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level, and which meets all requirements of the Town, other than requirements imposed pursuant to RCW 90.58. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

7. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system , including return flow and artificially stored ground water from the irrigation of lands.

8. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.

9. Operation and maintenance of existing and future system of dikes, ditches, drains, or other facilities on irrigable lands or similar facilities existing on September 8, 1975 (where water is being drained from irrigation runoff or shallow groundwater levels artificially recharged through irrigation, and that) which are created, developed or utilized primarily as a part of an agricultural drainage or diking system.

10. Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State Energy Facility Site Evaluation Council).

11. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

    a. The activity does not interfere with the normal public use of surface waters;

    b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

    c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity; and

    d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to assure that the site is restored to preexisting conditions.

12. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control published by the Departments of Agriculture or Ecology jointly with other state agencies under RCW 43.21C.

13. Watershed restoration projects as defined in RCW 89.08.460.

14. A public or private project that is designed to improve fish or wildlife habitat or fish passage when all of the following apply:

    a. The project has been approved by WDFW.

    b. The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55.

    c. Grant Town has determined that the project is substantially consistent with the local shoreline master program. Grant Town shall make such determination in a timely manner and provide it by letter to the applicant.

    d. Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs.

15. Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D or to Ecology when it conducts a remedial action under RCW 70.105D.

16. Other than conversions to non-forest land use, forest practices regulated under RCW 76.09 are not subject to additional regulations under the Act or this Program (90.58.030(2)(d)(ii)).

### 16.18.580 Duration of Permits

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

### 16.18.590 Initiation of Development

A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the date of receipt of the decision. The date of filing for a Substantial Development Permit is the dateof actual receipt by the department of Ecology of a local government's final decision on the permit. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of filing means the date a responsible local government or applicant receives the written decision of Ecology. When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

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

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

**16.18.600 Review Process**

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

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

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

**16.18.610 Appeals**

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

1. Town of Wilson Creek Council in accordance with Code Section 16.21.060. This applies to administrative appeals only. Appeals to the Hearing Examiner shall maintain the sequences below.
2. State Shorelines Hearings Board (SHB) in Tumwater.
3. SHB decisions may be appealed to superior court.
4. Superior court decisions may be appealed to the Court of Appeals
5. Appeals Court decisions may be appealed to the Washington Supreme Court
6. Appeals to the SHB and courts are governed by RCW 90.58.180, RCW 43.21B.001, RCW 34.05 Part V, and WAC 461.08.

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

**16.18.620 Amendments to Permits**

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

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

**16.18.630 Enforcement**

A. The Act provides for a cooperative program between the Town of Wilson Creek and the Department of Ecology to implement and enforce the provisions of the Act and this Master Program. This Section provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, and orders to take corrective action, in accordance with WAC 173-27-270, 173-27-280, 173-27-290, 173-27-300 and WCMC Chapter 16.40, Enforcement and Penalties. The enforcement means and penalties provided herein are not exclusive and may be taken or imposed in conjunction with, or in addition to, any other civil enforcement actions and civil penalties, injunctive or declaratory relief, criminal prosecution, actions to recover civil or criminal penalties, or any other action or sanction authorized by this Section, or any other provision of the Town of Wilson Creek Code and Land Use Code, or any other provision of state or federal law and regulation.

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

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

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

**16.18.640 Cumulative Effects of Shoreline Developments**

A. The Town will periodically evaluate the effectiveness of the Shoreline Master Program update for achieving no net loss of shoreline ecological functions with respect to shoreline permitting and exemptions. At the end of 2015 and at the end of every other year thereafter the Shoreline Administrator shall prepare a report of shoreline development permits, conditional permits and variances including the exempt use activity approvals and the locations and effects of each, by type and classifications. The report should include activities involving development, conservation, restoration, mitigation and enforcement. It should summarize the net

change of developments (including new development, decommissioning of structures and protected areas) using indicators such as linear length of stabilization and flood hazard structures, number of overwater structures (piers, docks etc.), road length within shoreline, number of water body road crossings, number of levees/dikes, acres of impervious surface areas, acres of vegetation, acres of permanently protected areas or areas with limited development. Compliance and enforcement activity will also be tracked.

B. The Shoreline Administrator will, to the extent feasible, coordinate with other departments of the Town or as adjacent jurisdictions, to assess cumulative effects of shoreline development.

**16.18.650 Amendments to Shoreline Master Program**

A. Amendments to the Program shall be processed as legislative decisions pursuant to WAC 173-26-110 as mentioned in this subsection. A complete submittal shall include two copies of the following, where applicable:

1. Documentation (i.e., signed resolution or ordinance) that the proposal has been approved by the local government;

2. If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document.

3. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;

4. Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. All proposals for changes in environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;

5. A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;

6. Evidence of compliance with chapter 43.21C RCW, the State Environmental Policy Act, specific to the proposal;

7. Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100;

8. Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government

review process or, where no comments have been received, a comment to that effect.

9. A copy of the master program submittal checklist completed in accordance with WAC 173-26-201 (2)(f) and (3)(a) and (h).

10. For comprehensive master program updates, copies of the inventory and characterization, use analysis, restoration plan and cumulative impacts analysis.

B. Any locally approved amendments to the SMP will not become effective until approved by the State Department of Ecology.

**16.18.660 Definitions**

A. Definitions

1. "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

2. “Adjacent,” for purposes of applying Article V – Critical Areas, means immediately adjoining (in contact with the boundary of the influence area) or within a distance less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. Adjacent shall mean any activity or development located:

a. On-site immediately adjoining a critical area; or

b. A distance equal to or less than the required critical area buffer width and building setback.

3. "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

4. “Agency consultation” means consultation with state or federal agencies, including but not limited to those listed below, for the intended purposes. “Agency consultation” does not mean “Endangered Species Section 7 Consultation.”

a. Washington Department of Fish and Wildlife and/or the U. S. Fish and Wildlife Service for the purpose of making a preliminary determination regarding the presence of priority habitats and species and the potential impacts of a development proposal on such habitats and species.

b. The Washington State Department of Natural Resources Natural Heritage Program for the purpose of making a preliminary determination regarding impacts of a development proposal on rare or sensitive plant and animal species associated with wetlands and aquatic ecosystems.

c. The Washington State Department of Ecology for the purpose of making a preliminary determination regarding impacts of a development proposal on wetlands and aquatic ecosystems.

d. The Washington State Department of Ecology for the purpose of making a preliminary determination regarding impacts of a development on groundwater resources and aquifer recharge areas.

e. The Washington State Department of Natural Resources Division of Geology and Earth Science for the purpose of making a preliminary determination regarding geologically hazardous areas, especially earthquakes and seismic activity.

f. The Natural Resource Conservation Service for the purpose of making a preliminary determination regarding geologically hazardous areas as they pertain to slope, soil type, other soil characteristics, and other erosive properties of soils.

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

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

7. "Agricultural equipment" includes, but is not limited to:

a. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; farm residences and associated equipment, lands,

and facilities; and roadside stands and on-farm markets for marketing fruit or vegetables.

8. “Agricultural facilities”. See “Agricultural equipment.”

9. “Agricultural land" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program.

10. “Alteration,” for purposes of applying Article V – Critical Areas, means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to: grading, filling, dredging, channelizing, clearing (vegetation), applying pesticides, discharging waste, construction, compaction, excavation, modifying for stormwater management, relocating, or other activities that change the existing landform, vegetation, hydrology, wildlife, or habitat value, of critical areas.

11. "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

12. “Applicant” means a person who files an application for a permit under this SMP and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

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

14. “Aquifer recharge area” means an area that, due to the presence of certain soils, geology, and surface water, acts to recharge ground water by percolation.

15. “Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

16. “Assessed value” means assessed valuation shall be as established by the King Town assessor’s office, unless otherwise provided by a market appraisal institute (MAI) appraisal.

17. “Associated wetlands” are those wetlands which are in proximity to, and either influence or are influenced by, a stream subject to the Act.

18. "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly

under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

19. “Base flood” means a flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” “Base flood elevation” means the water surface elevation of the base flood. It shall be referenced to the North American Vertical Datum of 1988 (NAVD).

20. “Basement” means any area of a building having its floor subgrade (below ground level) on all sides.

21. “Best management practices” (BMPs) means conservation practices or systems of practice and management measures that:

    a. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;

    b. Minimize adverse impacts on surface water and ground water flow, circulation patterns, and the chemical, physical, and biological characteristics of wetlands;

    c. Protect trees and vegetation designated to be retained during and following site construction; and

    d. Provides standards for proper use of chemical herbicides within critical areas.

22. “Buffer” means the zone contiguous with a critical area that is required for the continued maintenance, function, and structural stability of the critical area.

23. “Building setback line (BSBL)” means a line beyond which the foundation of a structure shall not extend.

24. “Caliper” means the American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes

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

26. “Clearing” means the cutting, killing, grubbing, or removing of vegetation or other organic material by physical, mechanical, chemical, or any other similar means.

27. “Cluster” means a group of three or more significant trees with overlapping or touching crowns.

28. “Community access” means a shoreline access available to a group or community (e.g. home owners association) which may not be accessible to general public.

29. “Compensation project” means actions specifically designed to replace project-induced critical area and buffer losses. Compensation project design elements may include, but are not limited to, land acquisition, planning, construction plans, monitoring, and contingency actions.

30. “Compensatory mitigation” means types of mitigation used to replace project-induced critical area and buffer losses or impacts.

31. “Concentrated animal feeding operation (CAFO)” means a Department of Ecology-regulated and permitted area where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period. The CAFO permit does not automatically kick in until a facility has a certain number of nonaquatic animals (i.e., 1,000 cattle or 700 dairy cows). Smaller facilities may also be regulated if they are discharging to a waterbody.

32. “Critical aquifer recharge area (CARA)” means areas designated by WAC 365-190-080(2) that are determined to have critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2).

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

34. "Critical areas" include the following areas and ecosystems: aquifer recharge areas (i.e., areas with a critical recharging effect on aquifers used for potable water); fish and wildlife habitat conservation areas; frequently flooded areas; geologically hazardous areas; and wetlands.

35. “Crown” means the area of a tree containing leaf- or needle-bearing branches.

36. “Data Maps” means that series of maps maintained by the Town of Hartline for the purpose of graphically depicting the boundaries of resource lands and critical areas.

37. “Developable area” means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this SMP.

38. “Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulk heading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level.

39. “Development Application” means an application tendered under the provision of subdivision and zoning ordinances for a conditional use permit,

rezone or planned development, or an application submitted pursuant to the subdivision and zoning ordinance for a preliminary major subdivision or short plat.

40. “Development permit” means any permit issued by the Town of Wilson Creek, or other authorized agency, for construction, land use, or the alteration of land.

41. “DSH” means the diameter at standard height; the diameter of the trunk measured 54 inches (4.5 feet) above grade.

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

43. “Ecology” means the Washington State Department of Ecology.

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

45. “Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rain, frost action, or stream flow.

46. “Erosion hazard area” means those areas that, because of natural characteristics including vegetative cover, soil texture, slope gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.

47. "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

48. “FEMA – Federal Emergency Management Agency” means the agency that oversees the administration of the National Flood Insurance Program (44 CFR).

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

50. “Fish and wildlife habitat conservation areas” means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-130. These areas include:

    a. Federally designated endangered, threatened and sensitive species. Areas with which federally designated endangered, threatened and sensitive species have a primary association. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

    b. State designated endangered, threatened and sensitive species. Areas with which state designated endangered, threatened and sensitive species have a primary association.

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

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

    e. Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the town, including but not

limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term.

f. All areas within the town meeting the definition of one or more critical areas defined above are hereby designated critical areas and are subject to the provisions of the SMP.

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

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

53. “Flood hazard area” means any area subject to inundation by the base flood or risk from channel migration including, but not limited to, an aquatic area, wetland, or closed depression.

54. “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance and Mitigation Administration has delineated both the areas of special flood hazard and the risk premium zones (44 CFR Part 59).

55. “Flood insurance study” means the official report provided by the Federal Insurance and Mitigation Administration that includes the flood profiles, the FIRM, and the water surface elevation of the base flood (44 CFR Part 59).

56. “Flood protection elevation” means an elevation that is one foot or more above the base flood elevation.

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

58. “Floodproofing” means adaptations that ensure a structure is substantially resistant to the passage of water below the flood protection elevation and resists hydrostatic and hydrodynamic loads and effects of buoyancy.

59. “Floodway” means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying stream ward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography,

or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

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

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

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

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

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

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

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

development, including the potential adverse impacts on adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

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

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

69. “Ground cover” means all types of vegetation other than trees.

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

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

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

73. “Hazardous substance(s)” means:

    a. A hazardous substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); any substance designated pursuant to Section 311(b)(2)(A) of the Clean Water Act (CWA); any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress); any toxic pollutant listed under Section 307(a) of the CWA; or any imminently hazardous chemical substance or mixture with respect to which the United States Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act;

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

74. “High-intensity land use” means land uses consisting of commercial, urban, industrial, institutional, retail, residential with more than one unit per acre,

agricultural (dairies, nurseries, raising and harvesting crops, requiring annual tilling, raising and maintaining animals), high-intensity recreation (golf courses, ball fields), and hobby farms.

75. “Heavy equipment” means such construction machinery as backhoes, treaded tractors, dump trucks, and front-end loaders.

76. “Hydraulic project approval (HPA)” means a permit issued by the state of Washington’s Department of Fish and Wildlife for modification to waters of the state in accordance with Chapter 77.55 RCW.

77. “Impervious surface area” means any non-vertical surface artificially covered or hardened so as to prevent or impede the percolation of water into the soil mantle including, but not limited to, roof tops, swimming pools, paved or graveled roads and walkways or parking areas, and excluding landscaping and surface water retention/detention facilities.

78. “In-stream structures” function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreation, or fisheries enhancement.

79. “Invasive, non-native vegetation species” means the plants listed for Eastern Washington in Washington State Noxious Weed Board Publication # 820-264E (N/6/09), or the latest version of this document.

80. “Isolated wetland” means those wetlands and their buffers that are outside of the following critical areas and their buffers, where applicable: lake, river, stream, or wetland. Isolated wetlands have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

81. “Landslide” means episodic down slope movement of a mass of soil or rock that includes, but is not limited to, rock falls, slumps, mudflows, and earth flows.

82. “Landslide hazard areas” means areas that are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

83. “Low-intensity land use” includes, but is not limited to, forestry and open space (such as passive recreation and natural resources preservation).

84. "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

85. “Mine Hazard Area” - areas underlain by, adjacent to, or affected by, mine workings such as adits, gangways, tunnels, drifts or air shafts.

86. “Minor utility project” means the placement of a utility pole, street sign, anchor, vault, or other small component of a utility facility, where the disturbance of an area is less than 75 square feet.

87. “Mitigation sequencing” means the process of avoiding, reducing, or compensating for the adverse environmental impact(s) of a proposal,

including the following actions, listed in the order of preference, a. being the most preferred:

a. avoiding the adverse impact altogether by not taking a certain action or parts of an action;

b. minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

c. rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment;

d. reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action;

e. compensating for the adverse impact by replacing, enhancing, or providing substitute resources or environments; and

f. monitoring the adverse impact and the compensation projects and taking appropriate corrective measures.

88. “Moderate-intensity land use” includes, but is not limited to, residential at a density of one unit per acre or less, moderate intensity open space (parks), agriculture (moderate intensity land uses such as orchards and hay fields).

89. “Monitoring” means the collection of data by various methods for the purpose of understanding natural systems and features, evaluating the impact of development proposals on such systems, and/or assessing the performance of mitigation measures imposed as conditions of development.

90. "Must" means a mandate; the action is required.

91. “Native growth protection easement (NGPE)” means an easement granted to the Town of Wilson Creek for the protection of native vegetation within a critical area or its associated buffer.

92. “Native vegetation” means plant species that are indigenous to the region.

93. “New agricultural activities” are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use.

94. "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program. Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following are considered conforming structures: setbacks, buffers, or yards; area; bulk; height; or density.

95. “New construction” means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this SMP.

96. "Non-water-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

97. “Normal maintenance” means those usual acts that are necessary to prevent a property’s decline, lapse, or cessation from a lawfully established condition.

98. “Normal repair” means to restore a structure or development to a state comparable to its original condition including, but not limited to, its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse impacts on shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development, and the replacement structure or development is comparable to the original structure or development including, but not limited to, its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse impacts on shoreline resources or environment.

99. "Ordinary high water mark (OHWM)" means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change or change through Crab Creek hydrology thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department. Where the OHWM cannot be found, it shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

100. “Practical alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impact on critical areas.

101. “Primitive trail” means unimproved, unpaved but physically defined pathway for non-motorized movement.

102. "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes: • Comparatively high fish or wildlife density; • Comparatively high fish or wildlife species diversity; • Fish spawning habitat; • Important wildlife habitat; • Important fish or wildlife seasonal range; • Important fish or wildlife movement corridor; • Rearing and foraging habitat; • Refugia habitat; • Limited availability; • High vulnerability

to habitat alteration; • Unique or dependent species; or. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife. A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

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

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

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

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

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

104. "Provisions" means policies, regulations, standards, guideline criteria or environment designations.

105. “Public Access” means both physical and visual access. Examples are listed below:

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

b. Physical Access. Physical public access may consist of a dedication of land or easement and a physical improvement in the form of a walkway, trail, bikeway, park, canoe and kayak hand launch site, or other area serving as a means of physical approach to public waters.

106. “Public agency” means every Town, Town, state, or federal office, every officer, every institution, whether educational, correctional, or other, and

every department, division, board, and commission that provides services or recommendations to the public or other such agencies.

107. "Public utility" means a public service corporation performing some public service subject to special governmental regulations, or a governmental agency performing similar public services, either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas, and transportation for persons and freight.

108. "Qualified professional" means a person with experience and training in the pertinent discipline, and who is a qualified expert with expertise appropriate for the relevant critical area or shoreline subject. A qualified professional must have obtained a B.S., B.A. or equivalent degree or certification in biology, engineering, environmental studies, fisheries, geomorphology, landscape architecture, forestry or related field, and two years of related work experience.

a. A qualified professional for wildlife, habitats or wetlands must have a degree in biology, zoology, ecology, fisheries, or related field, and professional experience in Washington State.

b. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

c. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

d. A qualified professional for vegetation management must be a registered landscape architect, certified arborist, biologist, or professional forester with a corresponding degree or certification.

109. "Recreational development" means the modification of the natural or existing environment to accommodate commercial and public facilities designed and used to provide recreational opportunities to the public. Commercial recreational development should be consistent with commercial development defined herein.

110. "Recreational vehicle" means a vehicle designed primarily for recreational camping, travel, or seasonal use that has its own mode of power or is mounted on or towed by another vehicle, including, but not limited, to travel trailers, folding camping trailer, truck camper, motor home, , and multi-use vehicles.

111. "Residential development" entails one or more buildings, structures, lots, parcels or portions thereof that are designed, used or intended to be used as a place of abode for human beings. These include single-family residences, residential subdivisions, short residential subdivisions, attached dwellings, and all accessory uses or structures normally associated with residential uses. Accessory residential uses include, but are not limited to, garages, sheds, tennis courts, swimming pools, parking areas, fences, cabanas, saunas and guest cottages. Hotels, motels, dormitories or any other type of overnight or

transient housing are excluded from the residential category and must be considered commercial uses depending on project characteristics.

112. "Restore", "Restoration" or "ecological restoration" means the reestablishment or upgrading of impaired natural or enhanced ecological shoreline processes or functions. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

113. “Riparian habitat” means areas adjacent to aquatic systems with flowing water that contains elements of both aquatic and terrestrial ecosystems that mutually influence each other.

114. “Salmonid” means a member of the fish family Salmonidae. In King Town, Chinook, coho, chum, sockeye, and pink salmon; cutthroat, brook, brown, rainbow, and steelhead trout; kokanee; and native char (bull trout and Dolly Varden).

115. “Section 404 Permit” means a permit issued by the Army Corp of Engineers for the placement of dredge or fill material waterward of the OHWM or clearing in waters of the United States, including wetlands, in accordance with 33 United States Code (USC) Section 1344.

116. “Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

117. "Shall" means a mandate; the action must be done.

118. "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

119. "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a Town or Town approved under chapter 90.58 RCW shall be considered an element of the Town or Town's comprehensive plan. All other portions of the shoreline master program for a Town or Town adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the Town or Town's development regulations.

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

121. “Shoreline stabilization” means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, wind, or wave action. These actions include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

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

123. “Significant tree” means any evergreen tree, other than holly, of at least 15 inches DSH and any deciduous tree, other than poplar trees, at least 12 inches DSH. Poplar trees, holly, and other invasive trees of any size are not considered significant trees.

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

125. “Snag” means the remaining trunk of a dying, diseased, or dangerous tree that is reduced in height and stripped of all live branches

126. “Species and habitats of local importance” means those species that may not be endangered, threatened, or critical from a state-wide perspective, but are of local concern due to their population status, sensitivity to habitat manipulation, or other educational, cultural, or historic attributes. These species may be priority habits, priority species, and those habitats and species identified in the critical areas code as having local importance (e.g., elk).

127. “Species, threatened and endangered” means those native species that are listed by the State Department of Fish and Wildlife pursuant to RCW 77.12.070 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered under the federal Endangered Species Act (16 U.S.C. 1533).

128. “Start of construction” means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit issuance date. For cumulative tracking, the permit may extend beyond the specified time frame to the time of permit completion. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as

clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

129. “Steep slopes” means those slopes (excluding Town-approved geotechnical engineered slopes) 40 percent or steeper within a vertical elevation change of at least 10 feet. A slope is defined by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

130. “Stream” means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state, including areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

131. "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water.

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

133. “Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which exceeds 50 percent of the assessed value of the structure before the improvement or repair is started. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term can exclude:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement or building official and are the minimum necessary to assure safe living conditions; or

b. Any alteration of a historic structure; provided, that the alteration will not preclude the structure’s continued designation as a historic structure.

134. "Substantially degrade" means to cause significant ecological impact.

135. “Thinning” means the evenly spaced noncommercial removal of up to 40 percent of trees and woody shrubs.

136. “Topping” means the severing of main trunks or stems of vegetation at any place above 25 percent of the vegetation height.

137. “Town” means the Town of Wilson Creek.

138. “Transportation facilities” are those structures and developments that provide for the movement of people, goods and services. These include roads and highways, railroad facilities, bridges, parking facilities, bicycle paths, trails and other related facilities.

139. “Tree removal” means the removal of a tree, through either direct or indirect actions, including but not limited to: (a) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (b) removal of at least half of the live crown; or (c) damage to roots or trunk that is likely to destroy the tree’s structural integrity.

140. “Trees” means any living woody plant characterized by one main stem or trunk and many branches and having a diameter of four inches or more measured 24 inches above ground level

141. “Unavoidable” means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

142. “Understory” means the vegetation layer of a forest that includes shrubs, herbs, grasses, and grass-like plants, but excludes trees.

143. “Urban Growth” - means activities that make intensive use of land for the location of building, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources.

144. “Urban Growth, characterized by” - means lands having urban growth on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth; or any and all incorporated areas.

145. “Utility” means a service and/or facility that produces, transmits, carries, stores, processes, or disposes of electrical power, gas, potable water, stormwater, communications (including, but not limited to, telephone and cable), sewage, oil, and the like.

146. “Vegetation” means plant life growing below, at, and above the soil surface.

147. “Vegetation alteration” means any clearing, grading, cutting, topping, limbing, or pruning of vegetation.

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

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

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

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

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

a. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

b. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

153. “Water resources inventory area (WRIA)” means one of 62 watersheds in the state of Washington, each composed of the drainage areas of a stream or streams, as established in Chapter 173-500 WAC as it existed on January 1, 1997.

154. “WDFW” means the Washington Department of Fish and Wildlife.

155. “Weir” means a structure generally built perpendicular to the shoreline for the purpose of diverting water or trapping sediment or other moving objects transported by water.

156. “Wetlands” are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities,

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

### 16.18.670 Shoreline Environment Designation Map