CITY OF BATTLE GROUND
SHORELINE MASTER PROGRAM

Goals, Policies and Regulations
December 2012

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CITY OF BATTLE GROUND

SHORELINE MASTER PROGRAM

City of Battle Ground

Community Development

109 SW 1st Street, #127

Battle Ground, WA 98604

This new program was adopted on February 21st, 2012 to comply with Shoreline Master Program Guidelines, Washington Administrative Code (WAC) 173-26 and Revised with Resolution No. 12-11 on December 3rd, 2012.

Approved by the Department of Ecology on December 10, 2012.

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Appendix B: City of Battle Ground City Critical Area Regulations

ACRONYMS

BMP	Best Management Practices
CRD	Columbia River Datum
DAHP	Department of Archaeology and Historical Preservation
DNR	Department of Natural Resources
Ecology, WDOE, or DOE	refers to the Washington State Department of Ecology
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
HPA	Hydraulic Project Approval
OHWM	Ordinary High Water Mark
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
SMA	Shoreline Management Act
SMP	Shoreline Master Program
SSWS	Shoreline of Statewide Significance
USACOE	Unites States Army Corps of Engineers
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

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CHAPTER 1 INTRODUCTION

1.1 Title

This document shall be known and may be cited as the City of Battle Ground (City) Shoreline Master Program ("Program" or "SMP").

1.2 Adoption Authority

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

1.3 Purpose and Intent

The purpose of this Program is:

1. To guide the future development of shorelines in the City in a positive, effective, and equitable manner consistent with the Act;

2. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of the City's shorelines; and

3. To ensure, at minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the following policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state:

> *"It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...*
>
> *In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to*

or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

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

1.4 Governing Principles

1. The goals, policies, and regulations of this Program are intended to be consistent with the State shoreline guidelines in Chapter 173-26 of the WAC. The goals, policies and regulations are informed by the Governing Principles in WAC 173-26-186, and the policy statements of RCW 90.58.020.

2. Any inconsistencies between this Program and the Act must be resolved in accordance with the Act.

3. Regulatory or administrative actions contained herein must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.

4. The regulatory provisions of this Program are limited to shorelines of the state, whereas the planning functions of this Program extend beyond the designated shoreline boundaries, given that activities outside the shoreline jurisdiction may affect shorelines of the state.

5. The policies and regulations established by this Program must be integrated and coordinated with those policies and rules of the City Comprehensive Plan and development regulations adopted under the Growth Management Act (RCW 36.70A) and RCW 34.05.328, Significant Legislative Rules.

6. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. This Program protects shoreline ecosystems from such impairments in the following ways:

    a. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines;

b. By including policies and regulations that require mitigation of adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WAC 173-26-201(2)(e)(i), Comprehensive Process to Prepare or Amend Shoreline Master Programs.

c. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly allocating the burden of addressing such impacts among development opportunities.

d. By including regulations and regulatory incentives designed to protect shoreline ecological functions, and restore impaired ecological functions where such functions have been identified.

1.5 Liberal Construction

As provided for in RCW 90.58.900, Liberal Construction, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted.

1.6 Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this Program or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Battle Ground hereby declares that it would have adopted this ordinance and each section, subsection sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

1.7 Relationship to Other Plans and Regulations

1. Proponents of shoreline use/development shall comply with all applicable laws prior to commencing any shoreline use, development, or activity.

2. 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.

3. Uses, developments and activities regulated by this Program may also be subject to the provisions of the City Comprehensive Plan, the Washington State Environmental Policy Act ("SEPA," Chapter 43.21C RCW and Chapter 197-11 WAC), other provisions of the City Code, including Title 17 Zoning Code, and various other provisions of local, state and federal law, as may be amended.

4. In the event this Program conflicts with other applicable City policies or regulations, they must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous, and unless otherwise stated, the provisions that provide the most protection to shoreline ecological processes and functions shall prevail.

5. Projects in the shoreline jurisdiction that have been previously approved through local and state reviews 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.

1.8 Effective Date

This Program and all amendments thereto shall take effect fourteen (14) days from the date of Department of Ecology's written notice of final action, and shall apply to new applications submitted on or after that date and to applications that have not been determined to be fully complete by that date.

CHAPTER 2 APPLICABILITY, SHORELINE PERMITS AND EXEMPTIONS

To be authorized, all uses and development activities in shorelines shall be planned and carried out in a manner consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use is required.

2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the Battle Ground City limits that fall under the jurisdiction of RCW 90.58.

The City is pre-designating shorelines within its adopted UGA. Until annexation, development in these areas will continue to be regulated by the Clark County SMP. The City's SMP will apply concurrent with annexation and no additional procedures are required by Ecology at the time of annexation (WAC 173-26-150) unless a re-designation is occurring per Section 4.4.5 and Table 4-1.

Such shorelands shall include:

a) Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM);

b) Floodways and contiguous floodplain areas landward, two hundred (200) feet from such floodways, and

c) All wetlands and river deltas associated with the streams and lakes that are subject to the provisions of this program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

A copy of the Shoreline Map for the City and its UGA is shown in Appendix A.

2. 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.

3. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally owned lands (including but not limited to, private in-holdings in national wildlife refuges).

4. Non-federal agency actions undertaken on federal lands must comply with this Program and the Act.

5. Native American Tribes' actions on tribal lands and federal agencies' actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party.

6. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.

7. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.

2.2 Shoreline Substantial Development Permit Required

1. Substantial development as defined by this program and RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a substantial development permit from the Shoreline Administrator, unless the use or development is specifically identified as exempt from a substantial development permit, in which case a letter of exemption is required.

2. The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this Program.

3. Within an urban growth area a shoreline substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the OHWM.

2.3 Exemptions from a Shoreline Substantial Development Permit

2.3.1 General Requirements

1. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this Program.

2. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit even if the development or use does not require a substantial development permit.

3. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.

4. If any part of a proposed development is not eligible for an exemption as defined in RCW 90.58.030(3) (e), WAC 173-27-040 and this section, then a substantial development permit is required for the entire proposed development project.

5. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.

6. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

2.3.2 List of Exemptions

The following activities shall not be considered substantial developments but shall obtain a statement of exemption, as provided for in Section 2.3.3.

1. Any development of which the total cost or fair market value does not exceed six thousand, four hundred, sixteen dollars ($6416.00) 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. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a 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 effects to shoreline resource 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 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 cubic yard of fill per one 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 State Department of Fish and Wildlife.

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 chapter 90.58 RCW, these regulations, or this Program, shall be obtained. All emergency construction shall be consistent with the policies and requirements of chapter 90.58 RCW 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 or modification of navigational aids such as channel markers and anchor buoys.

7. 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 City, other than requirements imposed pursuant to chapter 90.58 RCW. Local circumstances may dictate additional interpretations of normal appurtenances that shall be set forth and

regulated within this Program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single-family or multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies in fresh waters when the fair market value of the dock does not exceed ten thousand dollars ($10,000.00), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars ($2,500.00) occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.

9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands.

10. 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.

11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed or utilized primarily as a part of an agricultural drainage or diking system.

12. Any project with a certification from the governor pursuant to RCW 80.50 (certification from the State Energy Facility Site Evaluation Council).

13. 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 pre-existing conditions.

14. 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.

15. Watershed restoration projects as defined in RCW 89.08.460.

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:

    a. The project has been approved by the WDFW;

    b. The project has received hydraulic project approval (HPA) by WDFW pursuant to RCW 77.55; and

    c. The City of Battle Ground has determined that the project is substantially consistent with the local shoreline master program. The City of Battle Ground shall make such determination in a timely manner and provide it by letter to the applicant.

17. The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the Department of Ecology when it conducts a remedial action under chapter 70.150D RCW. The Department of Ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090.

2.3.3 Statements of Exemption

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 hereby 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 this section. 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 Act.

4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. In accordance with Chapter 7, the Shoreline Administrator's decision on a statement of exemption may be reconsidered or appealed.

5. Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the Shoreline Administrator: dredging, flood control and in-water structures, archaeological or historic site alteration, clearing and ground disturbing activities such as filling and excavation, docks, shore stabilization, or free-standing signs.

2.4 Prohibited Uses

The following modifications and uses are prohibited in all shoreline designations and are not eligible for review as a shoreline conditional use or shoreline variance. See Chapter 8 or BGMC 18.260.210 (indicated) for definitions of the following modifications and uses:

1. Uses not otherwise allowed in the underlying zoning district;

2. Parking as a primary use;

3. Discharge of solid wastes, liquid wastes, untreated effluents, other potentially harmful materials (BGMC 18.260.210);

4. Solid or hazardous waste landfills (BGMC 18.260.210);

5. Speculative fill; and

6. Dredging or dredge material disposal in wetlands or to construct land canals or small basins for boat moorage or launching, water ski landings, swimming holes or other recreational activities.

7. Commercial Uses

8. Industrial Uses

9. Log Storage

10. Commercial Timber Harvest

11. Mining

12. Breakwaters, Jetties, Rock Weirs and Groins

2.5 Nonconforming Uses and Development

2.5.1 Existing Uses and Development

1. Existing uses, structures and lots legally established prior to the effective date of this Program are allowed to continue. Where lawful uses, structures and lots exist that could not be established under the terms of this Program, such uses, structures and lots are deemed nonconforming and are subject to the provisions of this section, unless specific exceptions are provided for in Chapter 2.

2.5.2 Nonconforming Uses

1. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Program and the Act.

2. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that the use does not change or intensify.

3. If a nonconforming use is converted to a conforming use, a nonconforming use may not be resumed.

4. When the operation of a nonconforming use is vacated or abandoned for a period of twelve (12) consecutive months, the nonconforming use rights shall be deemed extinguished and the future use of such property shall be in accordance with the permitted and conditional use regulations of this Program.

5. If a conforming building housing a nonconforming use is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, such use may be resumed at the time the building is repaired; provided, such restoration shall be undertaken within twelve (12) months following said damage.

6. Normal maintenance and repair of a structure housing a nonconforming use may be permitted provided all work is consistent with the provisions of this Program.

2.5.3 Nonconforming Structures

1. A nonconforming building or structure may be maintained or repaired, provided such improvements do not extend or expand the nonconformity of such building or structure and are consistent with the provisions of this Program, unless required by other law or ordinance.

2. If a nonconforming structure or development is damaged by fire, flood, explosion, or other natural disaster and the damage is less than sixty percent (60%) of the replacement cost of the structure or development, it may be restored or reconstructed to those configurations existing at the time of such damage, provided:

a. The reconstructed or restored structure will not cause additional adverse effects to adjacent properties or to the shoreline environment;

b. The rebuilt structure or portion of structure shall not expand the original footprint or height of the damaged structure;

c. No degree of relocation shall occur, except to increase conformity or to increase ecological function, in which case the structure shall be located in the least environmentally damaging location possible;

d. The submittal of applications for permits necessary to restore the development is initiated within twelve (12) months of the damage. The Shoreline Administrator may waive this requirement in situations with extenuating circumstances;

e. The reconstruction is commenced within one (1) year of the issuance of permit;

f. The Shoreline Administrator may allow a one (1) year extension provided consistent and substantial progress is being made; and

g. Any residential structures, including multifamily structures, may be reconstructed up to the size, placement and density that existed prior to the damage, so long as other provisions of this Program are met.

2.5.4 Nonconforming Lots

1. Legally established, nonconforming, undeveloped lots located landward of the ordinary high water mark are buildable, provided that all new structures or additions to structures on any nonconforming lot must meet all setback, height and other construction requirements of the Program and the Act.

2.6 Shoreline Variance

1. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policies set forth in the Act and this Program.

2. When a shoreline variance is requested, the Shoreline Administrator shall be the final approval authority for the City. However, shoreline variances must have approval from Ecology, which shall have final approval authority. Shoreline variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in the SMA (RCW 90.58.020). In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

3. The Shoreline Administrator is authorized to recommend a variance from the performance standards of this Program only when all of the following criteria are met (WAC 173-27-170):

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

    b. That the hardship described in (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 this Program, 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 this Program and will not cause adverse impacts to the shoreline environment;

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

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

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

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

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

    b. That the proposal is consistent with the criteria established under subsection (3)(b) through (f) of this section; and

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

5. The burden of proving that a proposed shoreline variance meets the criteria of this program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

6. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area.

7. Before making a recommendation to grant a shoreline variance, the City shall consider issues related to the conservation of valuable natural resources, and the

protection of views from nearby public roads, surrounding properties and public areas.

8. A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this Program, and vice versa.

9. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline designation.

2.7 Shoreline Conditional Use Permit

1. The purpose of the conditional use permit is to provide greater flexibility in varying the application of the use regulations of this Program in a manner that will be consistent with the policies of the Act and this Program, particularly where denial of the application would thwart the policies of the Act.

2. When a conditional use is requested, the Shoreline Administrator shall be the final approval authority for the City. However, shoreline conditional uses must have approval from Ecology, which shall have final approval authority under WAC 173-27-200.

3. Conditional use permits shall be authorized only when they are consistent with the following criteria:

    a. The proposed use is consistent with the policies of RCW 90.58.020, WAC 173-27-160 and all provisions of this Program;

    b. The use will not interfere with normal public use of public shorelines;

    c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Program;

    d. The public interest will suffer no substantial detrimental effect;

    e. Consideration has been given to cumulative impact of additional requests for like actions in the area.

4. Other uses not specifically identified in this Program are considered “unclassified uses” and may be authorized through a conditional use permit if the applicant can demonstrate that the proposed use is consistent with the requirements of this section.

5. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.

6. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

CHAPTER 3 SHORELINE MASTER PROGRAM GOALS AND POLICIES

This chapter describes overall Program goals and policies. The general regulations in Chapter 5 and the specific use regulations in Chapter 6 are the means by which these goals and policies are implemented.

3.1 General Shoreline Goals

The general goals of this Program are to:

1. Use the full potential of shorelines in accordance with the opportunities presented by their relationship to the surrounding area, their natural resource values, and their unique aesthetic qualities offered by water, topography, and views; and

2. Develop a physical environment that is both ordered and diversified and which integrates water and shoreline uses while achieving a net gain of ecological function.

3.2 Archaeological, Historic, and Cultural Resources

3.2.1 Goal

The goal for archaeological, historic, and cultural resources is to preserve and prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value. Such sites include those identified by affected Indian tribes, the Department of Archaeology and Historic Preservation, Clark County Historic Preservation Commission, and other appropriate authorities.

3.2.2 Policies

1. Identify, protect, preserve, and restore important archaeological, historic, and cultural sites located in shorelands of the state for educational, scientific, and enjoyment of the general public.

2. Where appropriate, make access to such sites available to parties of interest, provided that access to such sites be designed and managed in a manner that protects the resource.

3. Historical and cultural sites should be acquired so as to ensure their protection and preservation.

4. Encourage projects and programs that foster a greater appreciation of shoreline management, local history, maritime activities, environmental conservation, and maritime history.

5. Continue to contribute to the state and local inventory of archaeological sites enhancing knowledge of local history and understanding of human activities.

3.3 Conservation

3.3.1 Goal

The goal of conservation is to protect shoreline resources, vegetation, important shoreline features, shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

3.3.2 Policies

1. Shorelines that support high value habitat or high quality associated wetlands should be considered for the highest level of protection to remain in an unaltered condition.

2. Impacts to critical areas should first be avoided, and where unavoidable, minimized and mitigated to result in no net loss of watershed processes and shorelines functions.

3. Management practices for natural resources (including agriculture, timber and mining) in shoreline areas should be developed and implemented to ensure the preservation of non-renewable resources, including unique, scenic and ecologically sensitive features, wetlands, and wildlife habitat.

4. Priority should be given to proposals to create, restore or enhance habitat for priority species in terms of administrative and regulatory assistance.

5. Regulatory, non-regulatory, and incentive programs should all be used for the protection and conservation of wildlife habitat areas. Emphasize policies and standards to protect and conserve critical areas as larger blocks, corridors or interconnected areas rather than in isolated parcels.

6. Encourage the retention of existing vegetation along shorelines and where removal is unavoidable for physical or visual access to the shoreline, limit alteration such that habitat connectivity is maintained, degraded areas are restored, and the health of remaining vegetation is not compromised.

3.4 Economic Development

3.4.1 Goal

The goal for economic development is to create and maintain an economic environment that is balanced with the natural and human environment.

3.4.2 Policies

1. Current economic activity that is consistent with the policies of this SMP should continue to be supported.

2. Healthy economic growth is allowed and encouraged through those economic activities that will be an asset to the local economy and which will result in the least possible adverse effect on the quality of the shoreline and downstream environments.

3. New water-oriented industrial, commercial, and resource-based activities that will not harm the quality of the site's environment, adjacent shorelands, or water quality are encouraged along the shoreline.

4. As an economic asset, the recreation industry should be encouraged along shorelines in a manner that will enhance the public enjoyment of shorelines, consistent with protection of critical areas and cultural resources.

5. Existing non-water-oriented commercial, industrial, and resource-based activities located in the shoreline jurisdiction are encouraged to protect watershed processes and shoreline functions.

3.5 Flood Prevention and Flood Damage Minimization

3.5.1 Goal

The goal for flood hazards is to promote public health, safety, and general welfare, by minimizing public and private losses due to flood conditions in specific areas and by maintaining and restoring natural flow patterns.

3.5.2 Policies

1. All shoreline development should be located, designed, and constructed to prevent flood damage and to the extent possible be located outside of shoreline jurisdiction.

2. Flood management works should be located, designed, constructed and maintained to protect:

    a) The physical integrity and other properties of the shoreline and other properties that may be damaged by alterations of the geo-hydraulic system;

    b) Water quality and natural ground water movement;

    c) Fish, vegetation, and other life forms and their habitat vital to the aquatic food chain; and

d) Recreation resources and aesthetic values such as point and channel bars, islands, and other shore features and scenery.

3. Non-structural flood hazard reduction measures are preferred to structural measures. Flood hazard reduction measures should be accomplished in a manner that ensures no net loss of ecological functions and ecosystem-wide processes.

4. Flood protection measures that result in channelization and/or reduction in shoreline function should be avoided.

5. Proposals for shoreline protection should clearly demonstrate that life, property, and natural resource values within the stream system will not be endangered.

6. When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

7. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

3.6 Public Access and Recreation

3.6.1 Goal

The goal of public access and recreation is to increase the ability of the general public to enjoy the water's edge, travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

3.6.2 Policies

1. Provide, protect, and enhance a public access system that is both physical and visual; utilizes both private and public lands; increases the amount and diversity of public access to the State's shorelines and adjacent areas; and is consistent with the shoreline character and functions, private rights, and public safety.

2. Increase and diversify recreational opportunities by promoting the continued public acquisition of appropriate shoreline areas for public use, and develop recreation facilities so that they are distributed throughout the community to foster convenient access.

3. Locate public access and recreational facilities in a manner that encourages variety, accessibility, and connectivity in a manner that will preserve the natural characteristics and functions of the shoreline.

4. Encourage public access provisions consistent with adopted city and county trails plans.

5. Encourage public access as part of each development project by a public entity, and for all private development (except residential development of less than four parcels), unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

6. Discourage shoreline uses that curtail or reduce public access unless such restriction is in the interest of the environment, public health, and safety, or is necessary to a proposed beneficial use.

7. Consider private rights, public safety, and protection of shoreline ecological functions and processes when providing public access and recreational opportunities.

3.7 Restoration

3.7.1 Goal

The goal of restoration is to re-establish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the SMP Restoration Plan and other approved restoration plans.

3.7.2 Policies

1. Shorelines that are biologically degraded should be reclaimed and restored to the greatest extent feasible.

2. Restoration strategies should be developed and implemented such that ecosystem processes are sustainable in the long-term.

3. Restoration of shoreline functions should be encouraged during redevelopment.

4. Restoration efforts should include retrofitting existing stormwater control facilities to improve water quality.

5. Restoration efforts should consider a focus on floodplain and channel migration zone reconnection where rivers are confined by levees.

6. Restoration projects should have adaptive management techniques including adjusting the project design, correcting problems (barriers to success), and implementing contingency measures.

7. Eradication of invasive species, including noxious weeds and non-native species, should be undertaken as needed.

8. Planting of vegetation that enhances shoreline function should be encouraged.

9. Education programs should be developed for:

a. Property owners about proper vegetation/landscape maintenance and the impacts of shore armoring and over-water structures;

b. Educate boaters about proper waste disposal methods, anchoring techniques, and other best boating practices, and the State's invasive species inspection program pursuant to RCW 77.15.290.

10. Cooperative restoration actions involving local, state, and federal agencies, Native American tribes, non-government organizations, and landowners should be encouraged.

3.8 Shoreline Modification and Stabilization

3.8.1 Goal

The goal for shoreline modification and stabilization is to avoid or minimize the need for shoreline armoring along shorelines of the state, and when it is necessary, achieve it in a way that best protects ecosystem processes, shoreline functions, and downstream properties.

3.8.2 Policies

1. New developments should be located in such a manner as to not require shoreline stabilization measures.

2. When necessary, natural, non-structural shoreline stabilization measures are preferred over structural stabilization measures. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

   a. No action;

   b. Flexible stabilization works constructed of natural materials, including soft shore protection, bioengineering, beach nourishment, protective berms, or vegetative stabilization;

   c. Rigid works constructed of structural materials such as riprap or concrete.

3. Allow new or expanded structural shore stabilization, including bulkheads, only where it is demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where such structures and structural stabilization would not cause a net loss of shoreline ecological functions and processes.

4. Shoreline stabilization should be located and designed to accommodate the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.

5. Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shoreline stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.

6. Shoreline stabilization projects should be developed in a coordinated manner among affected property owners and public agencies within a reach where feasible, particularly those that cross-jurisdictional boundaries, to address ecological and geo-hydraulic processes and sediment conveyance.

7. Failing, harmful, unnecessary, or ineffective shoreline stabilization structures should be removed or replaced to restore shoreline ecological functions and processes.

8. Larger works such as jetties, breakwaters, weirs, or groin systems should be permitted only for water-dependent uses and where mitigated to provide no net loss of shoreline ecological functions and processes.

9. Lower impact structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, are preferred over higher impact structures.

10. Encourage and facilitate levee setback (including but not limited to, pulling back an existing levee to allow for a larger floodplain area contiguous to a water body), levee removal, and other shoreline enhancement projects.

11. Materials used for construction of shoreline stabilization should be selected for durability, ease of maintenance, and compatibility with local shoreline features.

12. Development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions with the rivers and streams should be limited.

3.9 Shoreline Use and Development

3.9.1 Goal

The goal for shoreline use and development is to balance the preservation and development of shorelines in a manner that allows for mutually compatible uses. Resulting land use patterns will be compatible with shoreline designations and sensitive to and compatible with ecological systems and other shoreline resources. To help with this balance, shoreline and water areas with unique attributes for specific long term uses such as commercial, residential, industrial, water, wildlife, fisheries, recreational and open space shall be identified and reserved.

3.9.2 Policies

1. Uses in shorelines and water areas shall be allowed in the following priority order:

    a. water-dependent uses;

    b. water-related uses; and

    c. water-enjoyment uses.

2. Uses, activities, and facilities should be located on shorelines in such a manner as to:

    a. Retain or improve the quality of shoreline function;

    b. Respect the property rights of others;

    c. Ensure that proposed shoreline uses do not create risk or harm to neighboring or downstream properties; and

    d. Preserve and/or restore, to the maximum reasonable extent, the shoreline's natural features and functions in conjunction with any redevelopment or revitalization project.

3. The following are encouraged in shoreline areas:

    a. Uses that enhance their specific areas or employ innovative features for purposes consistent with this program;

    b. The redevelopment of any area not suitable for preservation of natural features, based on its shoreline designation, with an emphasis on public access;

    c. Master planning for large sites or projects;

    d. Shared uses and joint use facilities in shoreline developments; and

    e. Uses that allow for or incorporate restoration of shoreline areas that are degraded as a result of past activities or events.

4. The impact of uses proposed on lands adjacent to but outside of immediate shoreline jurisdiction should be considered whether they are consistent with the intent of this SMP.

3.10 Transportation, Utilities, and Essential Public Facilities

3.10.1 Goal

The goal for transportation, utilities, and essential public facilities is to provide for these facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

3.10.2 Policies

1. Locate essential public facilities, utilities and circulation systems that are not shoreline-dependent outside of the shoreline jurisdiction to the maximum extent possible to reduce interference with either natural shoreline functions or other appropriate shoreline uses.

2. Provide safe, reasonable, and adequate circulation systems to shorelines where routes will have the least possible adverse effect on shoreline function and existing ecological systems, while contributing to the visual enhancement of the shoreline.

3. Protect, manage, and enhance those characteristics of shoreline transportation corridors that are unique or have historic significance or aesthetic quality for the benefit and enjoyment of the public.

4. Devote roads within the shoreline jurisdiction to low volume local access routes and shoreline public access.

5. Encourage alternate modes of travel and provide multiple-use transportation corridors where compatible if shoreline transportation development is necessary.

6. Locate utility and transportation corridors to avoid creating barriers between adjacent uplands and the shoreline and to harmonize with the topography and other natural characteristics of the shoreline.

7. When new utility and transportation facilities are developed in the shoreline jurisdiction, protect, enhance, and encourage development of physical and visual shoreline public access.

8. Where feasible, relocate existing utility and transportation facilities, such as transmission lines, rail lines, or freeways that limit public shoreline access or other shoreline uses and convert such rights-of-way to new public access routes.

9. Utilities and transportation facilities should be installed and facilities designed and located in a coordinated manner that protects the shorelands and water from contamination and degradation.

10. Discourage the siting of essential public facilities in the shoreline jurisdiction unless no practical alternatives exist.

3.11 Views and Aesthetics

3.11.1 Goal

The goal for views and aesthetics is to assure that the public’s opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water, is protected to the greatest extent feasible.

3.11.2 Policies

1. Identify and encourage the protection of scenic vistas and areas where the shoreline has high aesthetic value.

2. Encourage development within the shoreline area that, provides visual and physical linkage to the shoreline, and enhances the waterfront.

3. Encourage development design that minimizes adverse impacts on views enjoyed by a substantial number of residences.

4. Maintaining vegetated riparian areas to protect shoreline stability and shoreline ecological functions takes precedence over vegetation clearing to preserve or create views.

3.12 Water Quality and Quantity

3.13.1 Goal

The goal for water quality and quantity is to protect and enhance the quality and quantity of the region's water resources to ensure there is safe, clean water for the public's needs and enjoyment.

3.12.2 Policies

1. Encourage the location, construction, operation, and maintenance of shoreline uses, developments, and activities to be focused on maintaining or improving the quality and quantity of surface and ground water over the long term.

2. Minimize, through effective education, site planning, and best management practices, the inadvertent release of chemicals, activities that cause erosion, stormwater runoff, and faulty on-site sewage systems that could contaminate or cause adverse effects on water quality.

3. Encourage the maintenance and restoration of appropriate vegetative buffers along surface waters to improve water temperature and reduces the adverse effects of erosion and runoff.

CHAPTER 4 SHORELINE DESIGNATIONS

4.1 Introduction

The intent of assigning shoreline designations to specific geographies is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, segments of shoreline are given a shoreline designation based on existing development patterns, natural capabilities and limitations, and the vision of the City of Battle Ground. The shoreline designations are intended to work in conjunction with the comprehensive plan and zoning.

Management policies are an integral part of the shoreline designations and are used for determining uses and activities that can be permitted in each shoreline designation. Development regulations specify how and where permitted development can take place within each shoreline designation and govern height and setback.

4.2 Authority

1. Local governments are required under the State Shoreline Management Act of 1971 (RCW 90.58) and the Shoreline Master Program Guidelines (WAC 173-26) to develop and assign a land use categorization system known as "shoreline environment designations" for shoreline areas as a basis for effective shoreline master programs. For purposes of this Program "shoreline designation" is used in place of the term "shoreline environment designation" referred to in WAC 173-26.

2. The method for local government to account for different shoreline conditions is to assign a shoreline designation to each distinct shoreline section in its jurisdiction. The shoreline designation assignments provide the framework for implementing shoreline policies and regulatory measures for environmental protection, use provisions, and other regulatory measures specific to each shoreline designation.

4.3 Shoreline Designations

The City classification system consists of shoreline designations that are consistent with and implement the Act (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26) and the City Comprehensive Plan. These designations have been assigned consistent with the corresponding criteria provided for each shoreline designation. In delineating shoreline designations, the City aims to ensure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should be consistent with the policies for restoration of degraded shorelines. All the shoreline designations, even if they are not applied within the city limits or urban growth area are listed here to maintain consistency countywide (See Sections 4.4.5 and 6.2), and are defined in the following sections:

- **Aquatic;**
- Natural;
- **Urban Conservancy;**
- Medium Intensity;
- High Intensity;
- Rural Conservancy – Residential; and
- Rural Conservancy – Resource Lands
- Aquatic and Urban Conservancy designations can be found in City of Battle Ground shoreline jurisdiction.

4.3.1 Aquatic Shoreline Designation

4.3.1.1 Purpose

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

4.3.1.2 Designation Criteria

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

4.3.1.3 Areas Designated

The Aquatic shoreline designation applies to areas as shown on a copy of the Official Shoreline Map (See section 4.4, Official Shoreline Map).

4.3.1.4 Management Policies

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

1. New over-water structures should be allowed only for water-dependent uses, public access, recreation, or ecological restoration.
2. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and natural hydrographic conditions.
3. In-water uses should be allowed where impacts can be mitigated to ensure no net loss of ecological functions. Permitted in-water uses must be managed to avoid

impacts to shoreline functions. Unavoidable impacts must be minimized and mitigated.

4. On navigable waters or their beds, all uses and developments should be located and designed to: (a) minimize interference with surface navigation; (b) consider impacts to public views; and (c) allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.

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

6. Structures and activities permitted should be related in size, form, design, and intensity of use to those permitted in the immediately adjacent upland area. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

7. Natural light should be allowed to penetrate to the extent necessary to discourage salmonid predation and to support nearshore habitat unless other illumination is required by state or federal agencies.

8. Aquaculture practices should be encouraged in those waters and beds most suitable for such use. Aquaculture should be discouraged where it would adversely affect the strength or viability of native stocks or unreasonably interfere with navigation.

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

4.3.2 Urban Conservancy Shoreline Designation

4.3.2.1 Purpose

The purpose of the “Urban Conservancy” shoreline designation is to protect and restore ecological functions of open space, floodplains, and other sensitive lands, where they exist in urban and developed settings, while allowing a variety of compatible uses.

4.3.2.2 Designation Criteria

The following criteria are used to consider an Urban Conservancy shoreline designation:

1. The shoreline is located within incorporated municipalities and designated urban growth areas.

2. The shoreline has moderate to high ecological function with moderate to high opportunity for preservation and low to moderate opportunity for restoration, or

low to moderate ecological function with moderate to high opportunity for restoration;

3. The shoreline has open space or critical areas that should not be more intensively developed;

4. The shoreline is not highly developed and is likely in recreational use. The shoreline has the potential for development that is compatible with ecological restoration. The shoreline is planned for a park, as open space, or for a Master Planned Resort; or

5. The shoreline has moderate to high potential for low-impact, passive or active water-oriented recreation where ecological functions can be maintained or restored.

4.3.2.3 Areas Designated

The Urban Conservancy shoreline designation applies to areas as shown on a copy of the Official Shoreline Map , City of Battle Ground, Washington (See Section 4.4. Official Shoreline Map).

4.3.2.4 Management Policies

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

1. Uses that preserve the natural character of the area or promote preservation of open space or critical areas either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the Urban Conservancy shoreline designation and the setting.

2. Single family residential 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.

3. Encourage regulations that limit lot coverage, provide adequate setbacks from the shoreline, promote vegetation conservation, reduce the need for shoreline stabilization and maintain or improve water quality to ensure no net loss of shoreline ecological functions.

4. Public access and public recreation objectives should be implemented whenever feasible and when significant ecological impacts can be mitigated.

5. Thinning or removal of vegetation should be limited to that necessary to (1) remove noxious vegetation and invasive species; (2) provide physical or visual access to the shoreline; or (3) maintain or enhance an existing use consistent with

critical areas protection and maintenance or enhancement of shoreline ecological functions.

6. Public access and public recreation facilities are a preferred use if they will not cause substantial ecological impacts and when restoration of ecological functions is incorporated.

7. Low intensity water-oriented commercial uses may be permitted if compatible with surrounding uses.

4.4 Official Shoreline Map

4.4.1 Map Established

1. The location and extent of areas under the jurisdiction of this Program, and the boundaries of various shoreline designations affecting the lands and water of the City shall be as shown on the map entitled, "Official Shoreline Map, City of Battle Ground, Washington." The official shoreline map and all the notations, references, amendments, and other information shown on the map are hereby made a part of this Program, as if such information set forth on the map were fully described herein.

2. In the event that new shoreline areas are discovered (including but not limited to, associated wetlands) that are not mapped and/or designated on the official shoreline map, these areas are automatically assigned an Urban Conservancy designation for lands within cities and urban growth areas, or Rural Conservancy – Residential if on lands outside urban growth areas until the shoreline can be re-designated through a Program amendment.

3. In the event of a mapping error, the city will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030 (2) and WAC 173-22 pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

4.4.2 File Copies

The Official Shoreline Map shall be kept on file in the office of the City of Battle Ground Department of Community Development – Planning Division and the Washington State Department of Ecology. Unofficial copies of the map may be prepared for administrative purposes. To facilitate use of this Program an "unofficial copy" has been attached as Appendix A.

4.4.3 Map Amendments

The Official Shoreline Map is an integral part of this Program and may not be amended except upon approval by the City and Ecology, as provided under the Act.

4.4.4 Boundary Interpretation

If disagreement develops as to the exact location of a shoreline designation boundary line shown on the Official Shoreline Map, the following rules shall apply:

1. Boundaries indicated as approximately following lot, tract, or section lines shall be so construed;

2. Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines;

3. Boundaries indicated as approximately parallel to or extensions of features indicated in (1) or (2) above shall be so construed.

4. Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the Shoreline Administrator shall interpret the boundaries with deference to actual conditions. Appeals of such interpretation may be filed according to the applicable appeal procedures described in Chapter 7, Administration and Enforcement.

4.4.5 Shoreline Designation Changes and Urban Growth Boundary Revisions

When a portion of shoreline jurisdiction is brought into or removed from an urban growth area, a new shoreline designation may need to be assigned. Shoreline designations shall be assigned in accordance with Table 4-1, Shoreline Designations for Urban/Rural Boundary Revisions. Where more than one designation could be appropriate according to Table 4-1, the shoreline designation criteria in this chapter shall be applied and the best-fitting shoreline designation assigned. Shoreline designation assignments shall occur concurrently with the annexation or other legislative action to remove a portion of shoreline jurisdiction from a city or urban area and to amend the shoreline map and shall be effective upon approval by Ecology (see Section 4.4.3).

Table 4-1. Shoreline Designations for Urban1/Rural2 Boundary Revisions

SENDING Jurisdiction Shoreline Designation	Transfer From/To	RECEIVING Jurisdiction Shoreline Designation(s)
Aquatic	Rural/Urban Urban/Rural	Aquatic Aquatic
Natural	Rural/Urban Urban/Rural	Natural Natural
Rural Conservancy – Residential	Rural/Urban	Urban Conservancy Medium Intensity
Rural Conservancy – Resource Lands	Rural/Urban	Urban Conservancy Medium Intensity High Intensity
Urban Conservancy	Urban/Rural	Rural Conservancy – Residential Rural Conservancy – Resource Lands

Medium Intensity	Urban/Rural	Rural Conservancy – Residential
High Intensity	Urban/Rural	Rural Conservancy – Resource Lands

[1]Urban = City or Urban Growth Area
[2]Rural = Unincorporated Clark County outside Urban Growth Areas

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CHAPTER 5 GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS

All uses and development activities in shorelines shall be subject to the following general regulations in addition to the applicable use-specific regulations in Chapter 6.

5.1 General Shoreline Use and Development Regulations

1. Shoreline uses and developments that are water-dependent shall be given priority.

2. Shoreline uses and developments shall fully mitigate for impacts and shall not cause impacts that require remedial action or loss of shoreline ecological functions on other properties. Mitigation shall occur in the following order of priority:

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

    b. Minimizing impacts altogether by not taking a certain action or parts of an action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impact;

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

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

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

    f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

3. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative to protecting public safety and existing primary structures.

4. Land shall not be cleared, graded, filled, excavated or otherwise altered prior to issuance of the necessary permits and approvals for a proposed shoreline use or development to determine if environmental impacts have been avoided, minimized and mitigated to result in no net loss of ecological functions.

5. Non-water oriented uses shall not adversely impact or displace water-oriented shoreline uses.

6. Single family residential uses shall be allowed on all shorelines not subject to a preference for commercial or industrial water-dependent uses, and shall be located, designed and used in accordance with applicable policies and regulations of this Program. However, single family residences are prohibited in the Aquatic and Natural shoreline designation.

7. On navigable waters or their beds, all uses and developments should be located and designed to: (a) minimize interference with surface navigation; (b) consider impacts to public views; and (c) allow for the safe, unobstructed passage of fish and wildlife, particularly species dependent on migration.

8. Hazardous materials shall be disposed of and other steps be taken to protect the ecological integrity of the shoreline area in accordance with the other policies and regulations of this Program as amended and all other applicable federal, state, and local statutes, codes, and ordinances.

9. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

10. The effect of proposed in-stream structures on bank margin habitat, channel migration, and floodplain processes should be evaluated during permit review.

11. Previous approvals of master plans for projects in shoreline jurisdiction should be accepted. New phases of projects for which no master plan has yet been approved, or for which major changes are being proposed, or new projects for which master plans are being submitted should be subject to the policies and regulations of this Program.

12. Within urban growth areas, the Department of Ecology may grant relief from use and development regulations of this program when:

    a. A shoreline restoration project identified in the Clark County Coalition SMP Restoration Plan causes or would cause a landward shift in the OHWM creating a hardship meeting specific criteria in RCW 90.58.580;

    b. The proposed relief meets specific criteria in RCW 90.58.580; and

    c. The application for relief is submitted to Ecology in writing requesting approval or disapproval as part of a normal review of a shoreline substantial development permit, conditional use permit, or variance. If the proposal is not connected to a shoreline permit review, the City may

provide a copy of a complete application to Ecology along with the applicant's request for relief.

5.2 Archeological, Cultural and Historic Resources

1. When a shoreline use or development is in an area known or likely to contain archaeological artifacts and data based on Clark County's predictive model, the applicant shall provide for a site inspection and evaluation by a professional archaeologist prior to issuance or as a condition of any shoreline permit or approval as determined by the City. Work may not begin until the inspection and evaluation have been completed and the City has issued its permit or approval.

2. If any item of possible archaeological interest (including human skeletal remains) is discovered on site, all work shall immediately stop, and the City, State Department of Archaeology and Historic Preservation (DAHP), and affected Native American Tribes shall be notified of such finding. A stop-work order will be issued. The shoreline permit will be temporarily suspended. All applicable state and federal permits shall be secured prior to commencement of the activities they regulate and as a condition or resumption of development activities. Development activities may resume only upon receipt of City approval.

3. If the discovery includes human skeletal remains, the find must be secured and protected from further disturbance; the Clark County Medical Examiner and local law enforcement shall be notified in the most expeditious manner possible. The County Medical Examiner will assume jurisdiction over the site and the human skeletal remains, and will make a determination of whether they are crime-related. If they are not, DAHP will take jurisdiction over the remains and report them to the appropriate parties. The State Physical Anthropologist will make a determination of whether the remains are Native American and report that finding to the affected parties. DAHP will handle all consultation with the affected parties as to the preservation, excavation, and disposition of the remains.

5.3 Critical Areas Protection

5.3.1 Applicable Critical Areas

1. For purposes of this Program, the following critical areas, defined in BGMC Chapter 18 Environmental Protection, will be protected under this Program, even if exempt from the requirements of BGMC Chapter 18:

2. Frequently Flooded Areas, BGMC Chapter 18.310 as adopted by Ordinance 04-025, dated December 6, 2004;

3. Geologically Hazard Areas, BGMC Chapter 18.300 as adopted by Ordinance 12-06, dated July 16, 2012;

4. Fish and Wildlife Habitat Conservation Areas (which include Priority Habitats and Species Areas identified by WDFW), BGMC Chapter 18.280 as adopted by Ordinance 04-025, dated December 6, 2004; and

5. Wetlands, BGMC Chapter 18.270 as adopted by Ordinance 04-025, dated December 6, 2004.

5.3.2 General Provisions

1. In addition to the provisions of this section, critical areas located within shoreline jurisdiction and their buffers are regulated and protected by the City critical areas regulations contained in the Battle Ground Municipal Code (BGMC) Chapters 18.260, 18.270, 18.280, 18.300 and 18.310 (included as Appendix B) which are integral and applicable to this Program and are hereby adopted by reference, except that:

    a. Non-conforming uses and development within the shoreline jurisdiction shall be subject to both this Program and BGMC Title 18 Environmental Protection, and where this is a conflict the most protective of environmental functions shall apply;

    b. Uses and development within the shoreline jurisdiction that meet the Reasonable Use Exception provisions of BGMC Chapter 18.260.080 shall require a shoreline variance in accordance with this program.

    c. Activity listed as exempt (E) in BGMC Table 18.260-1 and BGMC 18.260.070 that is within shoreline jurisdiction, may not be exempt from review under the shoreline master program where the SMP is more restrictive.

2. With regard to Priority Habitats and Species (PHS) the most current version of the PHS list shall apply, as referenced by WDFW. The City shall consult with WDFW in regards to classifications, mapping and interpretation of priority habitat species, including areas within one-thousand (1,000) feet of individual species point sites.

3. In the event of inconsistencies, official habitat area definitions shall prevail over county-wide maps in determining applicability of this section. The City shall follow the recommendations of WDFW in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

4. Habitat that cannot be replaced or restored within twenty (20) years shall be preserved.

5. Shoreline uses, activities, developments and their associated structures and equipment shall be located, designed and operated to protect the ecological processes and functions of critical areas.

6. Where appropriate, new or redevelopment proposals shall integrate protection of wetlands, fish and wildlife habitat, and flood hazard reduction with other stream management provisions, such as retention of channel migration zones, to the extent they are within the shoreline jurisdictional area to ensure no net loss of ecological functions.

7. Critical areas within the shoreline jurisdiction shall be regulated for any use, development or activity, as provided in accordance with this program and BGMC Chapters 18.260, 18.270, 18.280, 18.300 and 18.310 (as provided in Appendix B), whether or not a shoreline permit or written statement of exemption is required.

8. Provisions of the Critical Area Regulations that are not consistent with the Shoreline Management Act Chapter, 90.58 RCW, and supporting Washington Administrative Code Chapters shall not apply in shoreline jurisdiction.

9. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with BGMC Title 16 Land Divisions.

10. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and BGMC Title 18. Environmental Protection. However, these provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program.

11. Stormwater facilities permitted in any critical area buffer shall be limited to dispersion outfalls and bioswales and allowed in the outer 25% of the buffers of Category III or IV wetlands only (using the revised rating system).

12. What may be defined as an isolated and exempt wetlands in the BGMC, may not qualify as such under the SMP. If impacts are permitted, mitigation shall occur as noted below demonstrating no net loss.

13. The applicant shall demonstrate all reasonable efforts have been taken to avoid, and where unavoidable, minimize and mitigate impacts such that no net loss of critical area and shoreline function is achieved. Mitigation shall occur in the following order of priority:

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

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

f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

14. In addition to compensatory mitigation, unavoidable adverse impacts may be addressed through restoration efforts.

15. Shoreline uses and developments shall be located and designed in a manner such that shoreline stabilization is not necessary at the time of development and will not be necessary in the future for the subject property or other nearby shoreline properties unless it can be demonstrated that stabilization is the only alternative that allows a reasonable and appropriate water-dependent use to become established or expand or protects public safety and existing primary structures.

5.4 Flood Prevention and Flood Damage Minimization

1. Development in floodplains shall not significantly or cumulatively increase flood hazard or be inconsistent with an adopted comprehensive flood hazard management plan or the City's flood regulations within BGMC Title 18.310 "Frequently Flooded Areas".

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

3. Allow new structural flood hazard reduction measures in the shoreline jurisdiction only when it can be demonstrated by scientific and engineering analysis that they are necessary to protect existing development, that non-structural measures are not feasible, and that impacts ecological function and priority species and habitats can be successfully mitigated so as to assure no net loss of shoreline ecological function.

4. When necessary, in-stream structures shall be located, designed, and maintained in such a manner that minimizes flood potential and the damage affected by flooding.

5. Fills are prohibited in floodplains except where the applicant clearly demonstrates that the geohydraulic characteristics will not be altered in a way that increases flood velocity or risk of damage to life or property; and flood storage capacity will not be reduced (See Section 5.7.2).

6. Fill shall be avoided in critical areas or buffers where possible. Pile or pier supports or other support methods shall be utilized instead of fills whenever feasible, particularly for permitted development in floodways or wetlands (See Section 5.7.2).

7. Dikes and levees shall not be placed in the floodway except for current deflectors necessary for protection of bridges and roads.

8. Removal of gravel for flood management purposes shall be consistent with the adopted flood hazard reduction plan, the provisions of this Program, and only allowed after a biological and geomorphological study determines that extraction has a long-term flood hazard reduction benefit and does not result in net loss of ecological functions.

9. Removal of beaver dams to control or limit flooding shall be avoided where feasible, and allowed only in coordination with WDFW and receipt of all applicable state permits.

5.5 Public Access

1. Provisions for adequate public access shall be incorporated into all shoreline development proposals that involve public funding unless the proponent demonstrates public access is not feasible due to one or more of the provisions of Section 5.5 Regulation 2.a-e.

2. Consistent with constitutional limitations, provisions for adequate public access shall be incorporated into all land divisions and other shoreline development proposals (except residential development of less than five (5) parcels), unless this requirement is clearly inappropriate to the total proposal. Public access will not be required where the proponent demonstrates one or more of the following:

a. Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

c. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access are unreasonably disproportionate to the total proposed development;

d. Significant environmental impacts that cannot be mitigated will result from the public access; or

e. Significant undue and unavoidable conflict between public access requirements and the proposed use and/or adjacent uses would occur, provided that the applicant has first demonstrated and the City determines that all reasonable alternatives have been evaluated and found infeasible, including but not limited to:

   i. Regulating access by such means as maintaining a gate and/or limiting hours of use;

   ii. Designing separation of uses and activities (including but not limited to, fences, terracing, use of one-way glazing, hedges, landscaping); and

   iii. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.

3. Public access sites shall be connected to a barrier free route of travel and shall include facilities based on criteria within the Americans with Disabilities Act Accessibility Guidelines.

4. Public access shall include provisions for protecting adjacent properties from trespass and other possible adverse impacts to neighboring properties.

5. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations.

6. Required public access shall be fully developed and available for public use at the time of occupancy of the use or activity.

7. Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching ramp, dock or pier area, or other area serving as a means of view and/or physical approach to public waters and may include interpretive centers and displays.

8. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval.

9. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

10. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or non-profit agency through a formal agreement approved by the Shoreline Administrator and recorded with the County Auditor's Office.

5.6 Restoration

1. Restoration of shoreline ecological functions and processes shall be encouraged and allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this Program and consistent with other City programs (see Section 6.4.5).

2. Impacts to shoreline functions shall be fully mitigated. Such mitigation may include elements from the Restoration Plan, where appropriate.

3. Elements of the Clark Coalition Shoreline Restoration Plan may also be implemented in any shoreline designation to improve shoreline function.

4. Restoration efforts shall be developed by a qualified professional, shall be based on federal, state, and local guidance and shall consider the following:

    a. Riparian soil conditions;

    b. In-stream fish habitats; and

    c. Healthy aquatic and terrestrial food webs.

5.7 Site Planning and Development

5.7.1 General

1. Land disturbing activities such as grading and cut/fill shall be conducted in such a way as to minimize impacts to soils and native vegetation.

2. Impervious surfaces shall be minimized to the extent feasible as specified in BGMC 18.250 Stormwater Control and Drainage.

3. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be provided with safe and convenient circulation facilities.

4. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement.

5. Parking, storage, and non-water dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principle use.

6. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.

7. Elevated walkways shall be utilized, as appropriate, to cross sensitive areas such as wetlands.

8. Fencing, walls, hedges, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement.

9. Exterior lighting shall be designed, shielded and operated to: a) avoid illuminating nearby properties or public areas; b) prevent glare on adjacent properties, public areas or roadways; c) prevent land and water traffic hazards; and d) reduce night sky effects to avoid impacts to fish and wildlife.

10. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.

11. A use locating near a legally established aquaculture enterprise, including an authorized experimental project, shall demonstrate that such use would not result in damage to or destruction of the aquaculture enterprise, or compromise its monitoring or data collection.

5.7.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing grading, fill and excavation shall be conducted in such a way as to minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of BGMC Chapter 18.257 Clearing and Grading.

2. Clearing and grading shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.

3. Clearing and grading shall not result in substantial changes to surface water drainage patterns off the project site and onto adjacent properties.

4. Developments shall include provisions to control erosion during construction and to ensure preservation of native vegetation for bank stability.

5. Grading and grubbed areas shall be planted with a cover crop of native grasses until construction activities are completed.

6. Vegetation that cannot be replaced or restored within twenty (20) years shall be preserved.

7. Fills shall be permitted only in conjunction with a permitted use, and shall be of the minimum size necessary to support that use. Speculative fills are prohibited.

8. Any significant placement of materials from off-site (other than permitted deposition of clean dredge spoils) or substantial creation or increasing the elevation of land shall be considered fill and shall comply with the fill provisions in the City grading code (BGMC Chapter 18.257).

9. Soil, gravel or other substrate transported to the site for fill shall be screened and documented that it is uncontaminated. Use of polluted dredge spoils or contaminated materials as fill is prohibited.

10. Fills shall be designed and placed to allow surface water penetration into groundwater supplies where such conditions existed prior to filling.

11. Fills must protect shoreline ecological functions, including channel migration processes.

12. Fill waterward of OHWM shall only be allowed as a conditional use and then only when it is necessary:

    a. to support a water-dependent or public access use.

    b. for habitat creation or restoration projects;

    c. for remediation of contaminated sediments as part of an interagency environmental clean-up plan,

    d. for disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources,

    e. for expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible,

    f. for a mitigation action,

    g. for environmental restoration: or

    h. for a beach nourishment or enhancement project.

13. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.

14. Upon completion of construction, remaining cleared areas shall be replanted with native species contained in Clark County-approved plant list. Replanted areas shall be maintained such that within three (3) years' time the vegetation is fully re-established.

15. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, and shall be limited to the minimum necessary to accommodate an approved use.

5.7.3 Building Design

1. Structures shall be designed to conform to natural contours and minimize disturbance to soils and native vegetation

2. Non-single family structures shall incorporate architectural features that provide compatibility with adjacent properties, enhance views of the landscape from the water, and reduce scale to the extent possible.

3. Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

4. Façade treatments, mechanical equipment and windows in structures taller than two (2) stories, shall be designed and arranged to prevent bird collisions using the best available technology. Single-family residential structures shall be exempt from this provision.

5. Interior and exterior structure lighting shall be designed, shielded and operated to: a) avoid illuminating nearby properties or public areas; b) prevent glare on adjacent properties, public areas or roadways; c) prevent land and water traffic hazards; and reduce night sky effects to avoid impacts to fish and wildlife.

6. Accessory uses, including parking, shall be located as far landward as possible while still serving their intended purposes.

5.8 Vegetation Conservation

1. Existing vegetation within shoreline jurisdiction shall be retained in the riparian area between the OHWM of waters to the one-hundred-year floodplain or one hundred (100) feet, whichever is greater :

2. Removal of native vegetation shall be avoided. Where removal of native vegetation cannot be avoided, it shall be minimized to protect ecological functions.

3. If native vegetation removal cannot be avoided, it shall be minimized and then mitigated at a minimum ratio of 1:1, and shall result in no net loss of shoreline functions. Lost functions may be replaced by enhancing other functions provided that no net loss in overall functions is demonstrated and habitat connectivity is

maintained. Mitigation shall be provided consistent with an approved mitigation plan.

4. Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly re-established in the disturbed area.

5. If non-native vegetation is to be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.

6. Pruning of trees is allowed in compliance with the National Arborist Association pruning standards, unless the tree is a hazard tree as defined by BGMC Title 18 Environmental Protection and meets the following criteria:

    a. Removal of no more than twenty-five (25%) percent of the limbs of any single tree may be removed; and

    b. No more than twenty (20) percent of canopy in a single stand of trees may be removed in a given five (5) year period

    c. Mitigation requirements for removal of vegetation shall be made after review of a habitat management plan prepared by a qualified professional that assesses the cumulative impacts associated with removing riparian vegetation for view enhancement.

7. Topping of trees shall only be allowed to remove a hazard, per BGMC Title 18.260.090 and then as much of the trunk and limbs left in place to provide habitat material..

8. Natural features such as snags, stumps, logs or uprooted trees, which do not intrude on the navigational channel or threaten or public safety, and existing structures and facilities, shall be left undisturbed.

9. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.

10. Aquatic weed control shall only occur to protect native plant communities and associated habitats or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control shall occur in compliance with all other applicable laws and standards and shall be done by a qualified professional.

11. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where: (1) such activities are associated with a conversion to other uses or other forest practice activities over which local governments have

authority; or to (2) flood control levees required to be kept free of vegetation that damages their structural integrity.

5.9 Views and Aesthetics

5.9.1 Visual Access

1. Visual access shall be maintained, enhanced, and preserved as appropriate on shoreline street-ends, public utility rights-of-way above and below the ordinary high water mark and view corridors.

2. Development on or over the water shall be constructed to avoid interference with views from surrounding properties to the adjoining shoreline and adjoining waters to the extent practical.

3. Any new or expanded building or structure over thirty-five (35) feet in height above average grade level that obstructs the shoreline view of a substantial number of residents shall only be allowed when overriding considerations of the public interest will be served. . The Shoreline Administrator may require a view analysis including view corridors, view profiles, and vertical profiles from various locations to determine if shoreline views will be obstructed.

4. Clearing or pruning to preserve or create views shall be allowed as follows:

    a. When shoreline stability and shoreline ecological functions are maintained; and

    b. The applicable standards in Section 5.7 & 5.8 are met.

5.10 Water Quality and Quantity

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

2. All shoreline development shall comply with the applicable requirements of BGMC Chapter 18.250 for stormwater control and drainage.

3. Best management practices (BMPs) for control of erosion and sedimentation and meeting water quality standards in BGMC 18.250) shall be implemented for all shoreline development.

4. 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.

5. Herbicides, fungicides, fertilizers, and pesticides shall not be applied within twenty-five (25) feet of a waterbody, except by a qualified professional in accordance with state and federal laws. Further, pesticides subject to the final ruling in *Washington Toxics Coalition, et al., v. EPA* shall not be applied within sixty (60) feet for ground applications or within three hundred (300) feet for aerial applications of the subject water bodies and shall be applied by a qualified professional in accordance with state and federal law.

6. Any structure or feature in the Aquatic shoreline designation shall be constructed and/or maintained with materials 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.

7. Conveyance of any substance not composed entirely of surface and stormwater directly to water resources shall be in accordance with BGMC Chapter 18.250 Stormwater Control and Drainage.

8. Septic systems should be located as far landward of the shoreline and floodway as possible. Where permitted, new on-site septic systems shall be located, designed, operated, and maintained to meet all applicable water quality, utility, and health standards.

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CHAPTER 6 SPECIFIC SHORELINE USE REGULATIONS

6.1 General Provisions

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.

2. Uses prohibited within the City's zoning district as per BGMC Title 17 "Zoning" are prohibited in shoreline jurisdiction.

3. These regulations are intended to work in concert with all sections of this Program and in particular the Goals and Policies (Chapter 3) and General Use and Development Regulations (Chapter 5).

6.2 Shoreline Use, Modification, and Standards Tables

1. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program. Table 6-1 identifies those uses that are prohibited, may be permitted or permitted with a conditional use approval in each shoreline designation. In the event conflicts exist between the Table 6-1 and the text in this chapter, the text shall apply.

2. Table 6-1 also summarizes general setbacks and heights for uses within each shoreline designation. Uses refer to uses, structures and/or developments as applicable. These setbacks apply in conjunction with the requirements of the critical areas requirements established in Chapter 5. In the event a conflict exists between Table 6-1 and the requirements of Chapter 5, the most protective of shoreline functions shall apply.

3. Residential densities and lot dimensions are the same as those described in the Battle Ground Comprehensive Growth Management Plan and BGMC Title 17 for the respective zoning districts.

4. In Table 6-1, setbacks are measured landward from the ordinary high water mark (OHWM). For transportation facilities and utilities, the setback from OHWM pertains to the right of way and not just the structure or pipeline. In the Aquatic shoreline designation, the setback is waterward of the OHWM. Building heights are calculated according to WAC 173-27-030 (9), or from the OHWM in the Aquatic shoreline designation.

5. All the shoreline designations, even if they are not applied within the city limits or urban growth area are included in Table 6-1 to maintain consistency countywide. (See Sections 4.3 and 4.4.5.) Aquatic and Urban Conservancy designations can be found in the City of Battle Ground shorelines jurisdiction.

Table 6-1. Shoreline Use, Modification and Development Standards

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ**	NT	**UC**	MI	HI	RC-RD	RC-RL
Shoreline Designation	**Aquatic**	Natural	**Urban Conservancy**	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Shoreline Uses							
Agriculture							
Agriculture	**N/A**	X	**C**	P	P	P	P
• *Setback*	**N/A**	N/A	**100'**	100'	100'	100'	100'
• *Height*	**N/A**	N/A	**35'**	35'	35'	35'	35'
Aquaculture							
Aquaculture, General	**P**	X	**C**	C	C	C	C
• *setback*	**0'**	N/A	**50'**	50'	50'	50'	50'
Boating Uses							
Motorized Boat Launches	**P**	X	**C**	C	P	P	P
Non-motorized Boat Launches	**P**	C	**P**	P	P	P	P
Marinas	**X**	X	**X**	C	P	C	P
• Setback	**N/A**	N/A	**N/A**	25'	25'	25'	25'
• Height							
– 0-100' from OHWM	**N/A**	N/A	**N/A**	25'	35'	25'	35'
– >100' from OHWM	**N/A**	N/A	**N/A**	35'	45'	35'	45'
Docks, Piers, Mooring Buoys	**P**	X	**P[1]**	P[1]	P[1]	P	P
• *Setback*	**0'**	N/A	**0'**	0'	0'	0'	0'
Commercial Uses							
Water-dependent	**X**	X	**X**	P	P	C	C
• *Setback*	**0'**	N/A	**N/A**	0'	0'	0'	0'
• *Height*							
- 0 -100' from OHWM	**N/A**	N/A	**N/A**	35'	35'	35'	35'
- >100' from OHWM	**N/A**	N/A	**N/A**	45'	45'	45'	45'
Water-related, Water-enjoyment	**X**	X	**X**	P	P	C	C
• *Setback*	**N/A**	N/A	**N/A**	25'	25'	25'	25'
• *Height*							
- 0' -100' from OHWM	**N/A**	N/A	**N/A**	25'	35'	35'	35'
- >100' from OHWM	**N/A**	N/A	**N/A**	35'	45'	45'	45'
Non-water-oriented	**X**	X	**X**	C	C	X	X
• *Setback*	**N/A**	N/A	**N/A**	100'	100'	N/A	N/A
• *Height*	**N/A**	N/A	**N/A**	25'	25'	N/A	N/A
Forestry							
Log Storage	**X**	X	**X**	X	P	X	P
• Setback	**0'**	N/A	**N/A**	N/A	50'	N/A	50'
Timber Harvest	**X**	X	**X**	P	P	P	P
• *Setback*	**N/A**	N/A	**N/A**	100'	50'	100'	50'
Industrial Uses							
Water-dependent	**X**	X	**X**	X	P	X	X
• *Setback*	**0'**	N/A	**N/A**	N/A	0'	N/A	N/A
• *Height*							
- 0-100' from OHWM	**20'**	N/A	**N/A**	N/A	60'	N/A	N/A
- >100 from OHWM	**20'**	N/A	**N/A**	N/A	60'	N/A	N/A
Water-related	**X**	X	**X**	X	P	X	X
• *Setback*	**N/A**	N/A	**N/A**	N/A	50'	N/A	N/A
• *Height*							
- 0-100' from OHWM	**N/A**	N/A	**N/A**	N/A	45'	N/A	N/A
- >100 from OHWM	**N/A**	N/A	**N/A**	N/A	60'	N/A	N/A
Non-water-oriented	**X**	X	**X**	X	P	X	X
• *Setback*	**N/A**	N/A	**N/A**	N/A	100'	N/A	N/A
• *Height*	**N/A**	N/A	**N/A**	N/A	35'	N/A	N/A

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ**	NT	**UC**	MI	HI	RC-RD	RC-RL
Shoreline Designation	**Aquatic**	Natural	**Urban Conservancy**	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Institutional Uses							
Water-dependent	**C**	X	**C**	P	P	C	C
• *Setback*	**N/A**	N/A	**0'**	0'	0'	0'	0'
• *Height*							
- 0-100' from OHWM	**N/A**	N/A	**25'**	35'	45'	35'	35'
- >100 from OHWM	**N/A**	N/A	**35'**	45'	60'	'45'	45'
Water-related,	**X**	X	**X**	P	P	C	X
• *Setback*	**N/A**	N/A	**N/A**	25'	25'	50'	NA
• *Height*							
- 0-100' from OHWM	**N/A**	N/A	**N/A**	35'	45'	35'	N/A
- >100 from OHWM	**N/A**	N/A	**N/A**	45'	60'	35'	N/A
Non-water-oriented	**X**	X	**X**	C	C	X	X
• *Setback*	**N/A**	N/A	**N/A**	100'	100'	N/A	N/A
• *Height*	**N/A**	N/A	**N/A**	35'	35'	N/A	N/A
Mining							
Gravel Mining	**X**	X	**X**	X	C	C	C
• *Setback*	**N/A**	N/A	**N/A**	N/A	200'	200'	200'
Hard Rock Mining	**X**	X	**X**	X	C	C	C
• *Setback*	**N/A**	N/A	**N/A**	N/A	100'	100'	50'
Parking							
Primary Use	**X**	X	**X**	X	X	X	X
• *Setback*	**N/A**	N/A	**N/A**	N/A	N/A	N/A	N/A
Accessory Use	**X**	X	**P**	P	P	P	P
• *Setback*	**N/A**	N/A	**100'**	100'	50'	100'	100'
• *Height*	**N/A**	N/A	**35'**	35'	35'	35'	35'
Recreational Uses							
Water-dependent	**P**	P[2]	**P**	P	P	P	P
• *Setback*	**0'**	0'	**0'**	0'	0'	0'	0'
• *Height*	**15'**	15'	**15'**	35'	35'	35'	35'
Water-related/enjoyment (trails, accessory bldgs)	**C[2]**	C[2]	**P[3]**	P	P	P	P
• *Setback*	**N/A**	50'[3]	**50'[3]**	50'[3]	20'	20'	20'
• *Height*	**N/A**	15'	**15'**	35'	35'	35'	35'
Non-water-oriented (golf courses, sports fields)	**X**	X	**C**	C	C	C	X
• *Setback*	**N/A**	N/A	**100'**	100'	100'	200'	N/A
• *Height*	**N/A**	N/A	**25'**	25'	25'	15'	N/A
Residential Uses							
Single-family	**X**	X	**P**	P	X	P	P
• *Setback*	**N/A**	N/A	**100'**	50'	N/A	100'	100'
• *Height*	**N/A**	N/A	**35'**	35'	N/A	35'	35'
Floating homes (new)	**X**	N/A	**N/A**	N/A	N/A	N/A	N/A
• *Height*	**N/A**	N/A	**N/A**	N/A	N/A	N/A	N/A
Multifamily	**X**	X	**X**	P	P	X	X
• *Setback*	**N/A**	N/A	**N/A**	35'	35'	N/A	N/A
• *Height*	**N/A**	N/A	**N/A**	35'	35'	N/A	N/A
Signs [4]							
Fascia or Wall Signs	**X**	X	**X**	P	P	P	P
•							
Free Standing Informational	**P**	P	**P**	P	P	P	P
•							
•							

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ**	NT	**UC**	MI	HI	RC-RD	RC-RL
Shoreline Designation	**Aquatic**	Natural	**Urban Conservancy**	Medium Intensity	High Intensity	RC Residential	RC Resource Lands
Navigation Signs	**P**	P	**P**	P	P	P	P
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	**C**	X	**P**	P	P	P	P
• *Right-of-Way Setback*	**0'**	N/A	**200'**	100'	100'	200'	200'
Secondary/Public Access Roads (parallel to OHWM)	**X**	X	**P**	P	P	P	P
• *Right-of-Way Setback*	**NA**	N/A	**100'**	50'	50'	100'	100'
Bridges (perpendicular to shoreline)	**C**	C	**C**	P	P	C	C
• *Setback*	**0'**	0'	**0'**	0'	0'	0'	0'
Utility Uses							
Above-ground Utilities (parallel to shoreline)	**C**	C	**P**	P	P	P	P
• *Right-of-Way Setback*	**0'**	200'	**100'**	50'	50'	100'	100'
• *Structure Height*	**15'**	15'	**35'**	35'	UNL	15'	15'
• *Distribution Pole Height*	**0'**	45'	**45'**	45'	UNL	45'	45'
Electrical Transmission Lines	**C**	C	**C**	C	C	C	C
• *Tower Height*	**UNL**	UNL	**UNL**	UNL	UNL	UNL	UNL
Underground Utilities (parallel to shoreline)	**C**	C	**P**	P	P	P	P
• *Right-of-Way Setback*	**0'**	200'	**100'**	50'	50'	50'	50'
Underground Utilities (perpendicular to shoreline)	**C**	C	**C**	C	C	C	C
• *Right-of-Way Setback*	**0'**	0'	**0'**	0'	0'	0'	0'
Unclassified Uses							
Unclassified Uses	**C**	C	**C**	C	C	C	C
• *Setback*	**0'**	200'	**100'**	100'	100'	100'	100'
• *Height*	**15'**	15'	**35'**	35'	35'	35'	35'
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	**C**	N/A	**N/A**	N/A	N/A	N/A	N/A
Maintenance Dredging	**P**	N/A	**N/A**	N/A	N/A	N/A	N/A
Dredge Material Disposal	**C**	X	**X**	C	C[7]	C	C
Dredging & Disposal Ecological Restoration/Enhancement	**P**	C	**P**	P	P	P	P
Fill	**C[5]**	X	**P**	P	P	P	P
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	**C**	X	**C**	C	P	C	C
In-stream structures	**C**	N/A	**N/A**	N/A	N/A	N/A	N/A
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	**P**	P	**P**	P	P	P	P
Shoreline Stabilization							
Bioengineered/Non-Structural	**P**	P	**P**	P	P	P	P
Structural	**C**	X	**C**	C	C	C	C
Breakwaters, Jetties, Rock Weirs and Groins	**X**	X	**X**	C	C	C	C

[1] Private docks permitted as joint-use only (See 6.3.3.3 (8)(8)
[2] Low intensity only
[3] Water-related/enjoyment features such as viewpoints, gazebos, or fishing piers may have a 0' setback when connected to a public access trail.
[4] See Battle Ground Municipal Code Title 17.139 "Signs"
[5] See Section 5.7.2. (12)

6.3 Use-specific Development Regulations

6.3.1 Agriculture

1. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.

2. Stream banks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:

   a. Suitable bridges, culverts or ramps for stock crossing;

   b. Ample supplies of clean water in tanks on dry land for stock watering; and

   c. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.

3. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.

4. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. However, composted organic wastes may be used for fertilization or soil improvement.

5. New uses proposed as part of a conversion of agricultural lands shall comply with the provisions of BGMC Title 17 Development Code and this Program.

6.3.2 Aquaculture

1. No aquatic species shall be introduced into City waters without prior written approval of the appropriate state or federal regulatory agency for the species proposed for introduction. Such approval(s) shall be submitted in writing to the City as part of the shoreline permit application.

2. Aquaculture facilities shall only be permitted where impacts to existing water-dependent uses can be fully mitigated.

3. Fish net-pens shall not occupy more than one (1) surface acre of water, excluding booming and anchoring equipment and shall be located one (1) mile from any other aquaculture facility.

4. No processing of any aquaculture product, except for the sorting or culling of the cultured species and the washing or removal of surface materials or species after harvest, shall occur in or over the water. All other processing activities and facilities shall be located on land.

5. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, baseline and periodic operational monitoring by a City-approved consultant (unless otherwise provided for) may be required, at the applicant's

expense, and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts. Permits for such activities shall include specific performance measures and provisions for adjustment or termination of the project at any time if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.

6. Aquacultural uses and facilities not involving substantial substrate modification shall be located at least six hundred (600) feet from any wildlife refuge lands; those involving substantial substrate modification shall be located at least fifteen hundred (1,500) feet from such areas. Lesser distances may be authorized without a variance if (1) it is demonstrated by the applicant that the fish and wildlife habitat resources will be protected; and (2) if the change is supported by the reviewing resource agencies. Greater distances may be required if recommended by the reviewing resource agencies.

7. Aquacultural structures and activities that are not water-dependent (including but not limited to, warehouses for storage of products, parking and loading facilities) shall be located landward of the OHWM and landward of water dependent portions of the project, and shall minimize detrimental impacts to the shoreline.

8. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the OHWM shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock. Materials, which are not necessary for the immediate and regular operation of the facility, shall not be stored waterward of the OHWM.

9. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation. All wastes shall be disposed of in a manner that will ensure strict compliance with all applicable waste disposal standards.

10. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing or hand washing, rather than chemical treatment and application.

11. Prior to use of any agents such as antibiotics, vaccines, growth stimulants, or anti-fouling agents, approval must be obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, Ecology, WDFW, and the Department of Agriculture, as required, and proof thereof is submitted to the City.

12. Only non-lethal, non-abusive predator control methods shall be used. Double netting for seals, overhead netting for birds, and three-foot high fencing or netting for otters are approved methods of predator control. The use of other nonlethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.

6.3.3 Boating Uses

6.3.3.1 General Requirements

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

2. Boating facilities shall locate on stable shorelines in areas where: a) there is adequate water mixing and flushing; b) such facilities will not adversely affect flood channel capacity or otherwise create a flood hazard; and c) water depths are adequate to minimize spoil disposal, filling, beach enhancement, and other channel maintenance activities.

3. Boating facilities shall not be located a) along braided or meandering river channels where the channel is subject to change in alignment; b) on point bars or other accretion beaches; or c) where channel dredging will be required.

4. Boating facilities should not be located in areas with important bank margin habitat for aquatic species or where wave action caused by boating use would increase bank erosion rates.

5. Boating facilities shall be sited and designed to ensure no net loss of shoreline ecological functions, and shall meet DNR requirements and other state guidelines.

6. Boating facilities shall locate where access roads are adequate to handle the traffic generated by the facility and shall be designed so that lawfully existing or planned public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.

7. Joint-use moorage with ten (10) or more berths is regulated under this section as a marina, Section 6.3.3.4. Joint-use moorage with fewer than ten (10) berths is regulated under this section as a moorage facility, Section 6.3.3.3.

8. Boating uses and facilities shall be located far enough from public beaches commonly used for swimming, valuable fishing, and aquaculture harvest areas, or waterways used for commercial navigation to alleviate any adverse impacts, safety concerns and potential use conflicts.

9. Accessory uses at boating facilities shall be limited to water-oriented uses, including uses that provide physical or visual shoreline access for substantial numbers of the general public.

10. Accessory uses, including parking, shall be located as far landward as possible while still serving their intended purposes.

11. Parking and storage areas shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas.

12. All public launch facilities shall provide restrooms/hand-sanitizing facilities for boaters' use that are designed, constructed and maintained to be clean, well lighted, safe and convenient for public use.

13. Boat launch facilities shall install public safety signs and include the proper waste disposal facilities.

14. Boating facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, copper chromium, arsenic, pentachlorophenol or other similarly toxic materials is prohibited for use in moorage facilities.

15. Vessels shall be restricted from extended mooring on waters of the state except as allowed by state regulations and a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

6.3.3.2 Boat Launch Facilities

1. Launch facilities, haul-out facilities and minor accessory buildings, shall be designed and constructed in a manner that minimizes adverse impacts on fluvial processes, biological functions, aquatic and riparian habitats, water quality, navigation and neighboring uses.

2. When permitted, boat launch facilities shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available.

3. Rail and track systems shall be preferred over concrete ramps or similar facilities.

4. Private boat launches shall be allowed only when public boat launches are unavailable within a reasonable distance.

5. No more than one (1) private boat launch facility or structure shall be permitted on a single residential parcel or lot.

6.3.3.3 Moorage Facilities: Docks, Piers, and Mooring Buoys,

1. Mooring buoys shall be used instead of docks and piers whenever feasible.

2. Existing, legally-established, private recreational docks, piers and floats for individual lots in existing subdivisions and for existing individual single-family developments are considered non-conforming uses and structures. If such dock or float is abandoned, becomes hazardous, or is removed for any reason, only a joint-use facility may be developed in its place and only if the applicant meets the requirements of this section and are consistent with other policies and regulations of this Program.

3. All moorage facilities shall be constructed and maintained in a safe and sound condition. Those that are abandoned or unsafe shall be removed or repaired promptly by the owner.

4. Fixed-piers shall not be permitted for residential use on rivers. Docks for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one-hundred year-(100-) year flood or be seasonably removable.

5. Covered moorage facilities associated with any residential development shall be prohibited

6. Bulk storage (non-portable storage in fixed tanks) for gasoline, oil and other petroleum products for any use or purpose is prohibited on docks and piers.

7. Residential docks and piers shall be allowed as follows:

    a. A new private dock or pier serving an individual lot is prohibited.

    b. New joint-use docks and piers serving two or more lots are allowed if no marina or public boat launch is located within ½-mile of the upstream property line or ½-mile downstream from the downstream property line, and provided they meet the requirements of this Program.

    c. New divisions with shoreline frontage shall provide for joint-use docks if the proposal includes construction of a dock. Proposed docks and piers shall include no more than one mooring space per dwelling unit. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one joint-use facility shall be allowed, but only after demonstrating that such use is appropriate for the waterbody. The applicant must also demonstrate that no public moorage facility is available to residents. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint use dock easement shall be recorded with the County Auditor.

    d. Only a single, joint-use moorage facility shall be permitted in association with hotels, motels, and multi-family residences. No more than one (1) mooring slip for every two (2) units shall be allowed.

8. Applicants for joint-use docks and piers shall demonstrate and document that adequate maintenance of the structure, activities, and associated landward area will be provided by identified responsible parties. The applicant shall file a legally enforceable joint use agreement or other legal instrument prior to the issuance of any building permits. The documents shall at minimum address the following:

    a. Apportionment of construction and maintenance expenses;

    b. Easements and liability agreements; and

    c. Use restrictions.

9. Docks and piers shall be designed and constructed to meet the following standards:

a. The maximum dimensions of a dock or pier shall be no greater than necessary, and shall generally meet the following development standards, which dimensions may be adjusted by the Shoreline Administrator on a case-by-case basis to protect sensitive shoreline resources.

    i. Docks, piers, and ramps shall be no more than 4 feet in width.

    ii. A dock or pier shall be long enough to obtain a depth as required by WDFW at its landward edge, and only as long as necessary to serve the intended use.

    iii. The deck surface of docks and piers shall not exceed three (3) feet in height above the OHWM on the landward side, and shall extend one (1) foot above the water surface at all other locations.

b. Overwater structures shall be located in water sufficiently deep to prevent the structure from grounding out at the lowest low water or stoppers should be installed to prevent grounding out.

c. The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area shall have unobstructed grating over the entire surface area. Floating docks and piers shall have unobstructed grating over at least fifty percent (50%) of the surface area.

d. Piers/anchors and/or ramps shall extend waterward, perpendicular from the ordinary high water mark (OHWM), to a point where the water depth is sufficient to prevent damage to shallow-water habitat.

e. Skirting shall not be placed on piers, ramps, or floats. Protective bumper material will be allowed along the outside edge of the float as long as the material does not extend below the bottom edge of the float frame or impede light penetration.

f. If a bulkhead-like base is proposed for a fixed pier or dock where there is net positive littoral drift, the base shall be built landward of the OHWM or protective berms. When plastics or other non-biodegradable materials are used in float, pier, or dock construction, precautions shall be taken to ensure their containment.

g. Pilings must be structurally sound and cured prior to placement in the water. Pilings employed for docks, piers, or any other structure shall have a minimum vertical clearance of one foot above extreme high water. Pile spacing shall be the maximum feasible to minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.

h. Docks used for motor boats should be located where the water will be deeper than seven (7) feet at the lowest low water to avoid prop scour.

i. Docks and piers shall be set back a minimum of ten (10) feet from side property lines, except that joint-use facilities may be located closer to or upon a side property line when agreed to by contract or covenant with the owners of the affected properties. A copy of such agreement shall be recorded with the County Auditor and filed with the shoreline permit application.

10. Recreational floats shall be designed and constructed to meet the following standards:

    a. They shall be located as close to the shore as possible, and no farther waterward than any existing floats and established swimming areas.

    b. They shall be constructed so that the deck surface is one (1) foot above the water surface and with reflectors for nighttime visibility.

    c. Floats serving the public, a multi-family development, or multiple property owners shall not exceed one hundred (100) square feet; those serving only a legally established single-family home shall not exceed sixty-four (64) square feet.

11. Mooring buoys shall be placed as specified by WDFW, DNR, and the U.S. Coast Guard to balance the goals of protecting nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet WDFW standards.

12. Mooring buoys shall be discernible from a distance of at least one hundred (100) yards, and shall be equipped with reflectors for nighttime visibility. Only one mooring buoy for each waterfront lot shall be permitted unless greater need is demonstrated by the applicant and documented by the City. In cases such as those of a community park with recreational users or a residential development with lot owners both on and away from the shoreline needing moorage, joint-use facilities shall be employed.

14. Mooring buoys for residential use on a river shall be securely anchored to pilings to allow for changes in river level, and shall be designed to withstand the one hundred- (100) year flood or be seasonably removable.

15. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

16. Moorage facilities in waters providing a public drinking water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete, or steel.

6.3.3.4 Marinas

1. Marina's are a prohibited use within the City Shoreline jurisdiction.

6.3.4 Commercial Uses

1. Commercial uses are a prohibited use within the City Shoreline jurisdiction.

6.3.5 Forest Practices

1. Commercial harvest of timber undertaken on shorelines shall comply with the applicable policies and provisions of the Forests and Fish Report (U.S. Fish and Wildlife Service, et al., 1999) and the Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources.

2. When timberland is to be converted to another use, such conversion shall be clearly indicated on the Forest Practices application. Failure to indicate the intent to convert the timberland to another use on the application will result in subsequent conversion proposals being reviewed pursuant to Conversion Option Harvest Plan. Failure to declare intent to convert on the application shall provide adequate grounds for denial of subsequent conversion proposals for a period of six years from date of Forest Practices application approval per RCW 76.09.060(3)(d), (e) and (f), RCW 76.09.460, and RCW 76.09.470.

3. With respect to timber situated within two hundred (200) feet landward of the OHWM within shorelines of the statewide significance, Ecology or the City shall allow only selective commercial timber cutting, so that no more than thirty percent (30%) of the merchantable trees may be harvested in any ten- (10-) year period of time; provided that other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silviculture practices necessary for regeneration render selective logging ecologically detrimental; and provided further, that clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. Exceptions to this standard shall be by conditional use permit only.

4. For the purposes of this Program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered forest practices and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this Program, including vegetation conservation.

5. Log storage is a prohibited use within the City's shoreline jurisdiction.

6.3.6 Industrial Uses

6.3.6.1 General Requirements

1. Industrial uses and development are prohibited in the City's shoreline jurisdiction.

6.3.7 Institutional Uses

1. Water-oriented Institutional uses are preferred over non-water oriented industrial uses and developments.

   a. Water dependent- institutional uses and developments are allowed as conditional uses in the City's shoreline jurisdiction.

6.3.8 Mining

1. Mining is a prohibited use within City's shoreline jurisdiction.

6.3.9 Parking

1. Parking as a primary use is prohibited in all shoreline areas.

2. Where parking is allowed as accessory to a permitted use, it shall be located landward of the primary structure as far as possible or within the primary structure.

6.3.10 Recreational Development

1. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths.

2. The minimum width of public access easements for trails shall be twenty (20) feet when a trail is not located within a public right-of-way, unless the Shoreline Administrator determines that undue hardship would result, or that it is impractical or environmentally unsound. In such cases, easement width may be reduced only by the minimum extent necessary to meet public access standards.

3. Recreation areas or facilities on the shoreline shall provide physical or visual public access to the shoreline.

4. Parking areas shall be located upland away from the immediate shoreline, with pedestrian trails or walkways providing access to the water.

5. All permanent, substantial, recreational structures and facilities shall be located outside officially mapped floodways. The Administrator may grant administrative exceptions for non-intensive minor accessory uses (including but not limited to, picnic tables, playground equipment).

6. Recreational sites with active uses shall be provided with restrooms and hand washing facilities in accordance with public health standards and without adversely altering the natural features attractive for recreational uses.

7. Recreational facilities shall make adequate provisions, such as buffer strips, screening, fences, and signs, to protect the value and enjoyment of adjacent or nearby private properties and natural areas from trespass, overflow and other possible adverse impacts.

8. Provisions shall be made for the protection of water areas from drainage and surface runoff in all recreational developments requiring the use of fertilizers and pesticides in areas adjacent to shorelines, such as in play fields and golf courses.

9. Golf course structures (clubhouses and maintenance buildings) that are non water-oriented shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state.

10. Tees, greens, fairways, golf cart routes, and other site development features shall be located no closer than one hundred (100) feet from the OHWM of any shorelines of the state to the extent practicable. Where unavoidable, such development shall be designed to minimize impacts to shoreline and critical areas and their buffers and mitigate impacts by including ecological restoration and enhancement.

11. Golf course water hazards and stormwater drainage basins shall be managed:

    a. for wildlife through appropriate plantings and measures to maintain or enhance water quality; and

    b. Consistent with BGMC Chapter 18.250 Stormwater Control and Drainage.

12. The setback for water-related and water-enjoyment recreational development in Natural, Urban Conservancy, and Medium Intensity shoreline designations is fifty(50) feet, except trails which may meander between twenty (20) and fifty (50) feet landward of the OHWM to:

    a. Respond to site characteristics such as natural topography and existing vegetation; or

    b. Take advantage of opportunities for visual or physical access to the shoreline; or

    c. Connect existing trail easements; or

    d. Create an interesting experience for trail users.

    A trail project, any portion of which encroaches closer than fifty (50) feet, shall maintain no net loss of shoreline ecological function and include shoreline restoration where feasible.

13) The following trail types as described in the Vancouver-Clark Parks and Recreation Regional Trails and Bikeway Systems Plan (2006) are preferred in the Natural shoreline designations:

    a) Type A3: Primitive Trails or Paths;

    b) Type C2: Walking Trials or Paths;

    c) Type D1: Equestrian Trials or Paths.

14) When regional or local shared-use or other impervious surface trails are proposed in the Natural or Urban Conservancy shoreline designations, the project shall maintain no net loss of shoreline ecological functions and include shoreline restoration where feasible.

6.3.11 Residential Development

1. Residential developments shall include provisions to ensure preservation of native vegetation and control erosion during construction.

2. New residential construction shall be located so as not to require shoreline stabilization measures.

3. New residential development shall be prohibited in, over, or floating on the water. Existing residences in, over or floating on the water that were legally established as of January 1, 2011 are considered conforming uses.

4. Legally-established existing residential structures and appurtenances that do not meet the standards of the Program are considered to be conforming. A one-time expansion is allowed as follows:

    a. The expansion is no more than twenty-five percent (25%) of the habitable floor area of the existing residence;

    b. The expansion does not exceed the height limit;

    c. The expansion is no further waterward of the existing structure; and

    d. The applicant demonstrates through a letter of exemption that the expansion will result in no net loss of shoreline ecological functions,

5. New residential development shall be located and designed to a density that complies with BGMC Title 17 “Zoning” and the setbacks within the Program to minimize view obstructions to and from the shoreline.

6. Clustering of residential units as permitted by BGMC Title 17 “Zoning” shall be allowed where appropriate to minimize physical and visual impacts on shorelines.

7. In those areas where only onsite sewage systems are available, density shall be limited to that which can demonstrably accommodate protection of surface and groundwater quality.

8. New residential development, including sewage disposal systems, shall be prohibited in floodways and channel migration zones.

9. Appurtenances, accessory uses, and facilities serving a residential structure shall be located outside setbacks, critical areas and buffers unless otherwise allowed under this Program to promote community access and recreational opportunities.

10. New residential lots created through land division in the shoreline shall only be permitted when the following standards are met:

    a. Structural flood hazard reduction measures are not required and will not be necessary during the life of the development or use.

    b. Shoreline stabilization measures are not required.

    c. Any loss of shoreline ecological function can be avoided.

11. Where a new moorage facility is proposed within a residential waterfront development of more than four (4) units, only one joint-use facility shall be allowed, but only after demonstrating that such use is appropriate for the waterbody. The applicant must also demonstrate that no public moorage facility is available to residents. This condition of approval with required access easements and dedications shall be identified on the face of the plat. In addition, the joint-use dock easement shall be recorded with the County Auditor.

6.3.12 Signs

1. Free-standing signs shall be for only informational purposes such as directional, navigational, educational/interpretive, and safety purposes, unless otherwise allowed under this Program and as specified in BGMC 17.139.

2. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access corridors to the shoreline.

3. Overwater signs or signs on floats or pilings shall be prohibited, except when related to navigation or a water-dependent use.

4. Illuminated signs shall be limited to informational, directional, navigational or safety purposes and shielded so as to eliminate glare when viewed from surrounding properties or watercourses.

6.3.13 Transportation Uses

1. All transportation facilities in shoreline areas shall be constructed and maintained to cause the least possible adverse impacts on the land and water environments, shall respect the natural character of the shoreline, and make every effort to preserve wildlife, aquatic life and their habitats.

2. New or expanded surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction wherever possible, or set back from the ordinary high water mark far enough to make shoreline stabilization, such as rip rap, bulkheads or jetties, unnecessary.

3. Transportation facilities shall not adversely impact existing or planned water-dependent uses by impairing access to the shoreline.

4. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.

5. Transportation facilities that are allowed to cross over water bodies and associated wetlands shall utilize elevated, open pile or pier structures whenever feasible to reduce shade impacts. All bridges shall be built high enough to allow the passage of debris and anticipated high water flows.

6. Fills for transportation facility development shall not be permitted in water bodies or associated wetlands except when all structural or upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this program.

7. Transportation and utility facilities shall be required to make joint use of rights-of-way and to consolidate crossing of water bodies.

6.3.14 Utilities Uses

These provisions apply to services and facilities that produce, convey, store, or process power, gas, wastewater, communications, and similar services and functions. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence or other approved use are “accessory utilities” and shall be considered a part of the primary use.

1. Whenever feasible, all utility facilities shall be located outside shoreline jurisdiction. Where distribution and transmission lines (except electrical transmission lines) must be located in the shoreline jurisdiction they shall be located underground.

2. Where overhead electrical transmission lines must parallel the shoreline, they shall be outside of the two hundred (200) foot shoreline environment unless topography or safety factors would make it unfeasible.

3. Utilities shall be designed, located and installed in such a way as to preserve the natural landscape, minimize impacts to scenic views, and minimize conflicts with present and planned land and shoreline uses.

4. Transmission, distribution, and conveyance facilities shall be located in existing rights of way and corridors or shall cross shoreline jurisdictional areas by the

shortest, most direct route feasible, unless such route would cause significant environmental damage.

5. Utility production and processing facilities, such as power plants and wastewater treatment facilities, or parts of those facilities that are nonwater-oriented shall not be allowed in the shoreline jurisdiction unless it can be demonstrated that no other feasible option is available.

6. Stormwater control facilities, limited to detention / retention / treatment ponds, media filtration facilities, and lagoons or infiltration basins, within the shoreline jurisdiction shall only be permitted when the following provisions are met:

    a. The stormwater facility is designed to mimic and resemble natural wetlands and meets applicable City or State stormwater management standards and the discharge water meets state water quality standards;

    b. Low impact development approaches have been considered and implemented to the maximum extent feasible.

7. New and modifications to existing outfalls shall be designed and constructed to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. Diffusers or discharge points must be located offshore at a distance beyond the nearshore area to avoid impacts to those habitats.

8. Water reclamation discharge facilities such as injection wells or activities such as land application are prohibited in the shoreline jurisdiction, unless the discharge water meets State Department of Ecology Class A reclaimed water standards. Proponents for discharge of Class A reclaimed water in the shoreline jurisdiction shall demonstrate habitat benefits of such discharge.

9. Where allowed under this program, construction of underwater utilities or those within the wetland perimeter shall be scheduled to avoid major fish migratory runs or use construction methods that do not cause disturbance to the habitat or migration.

10. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially detrimental to water quality shall provide automatic shut off valves.

11. Upon completion of utility installation/maintenance projects on shorelines, banks shall, at a minimum, be restored to pre-project configuration, replanted and provided with maintenance care until the newly planted vegetation is fully established. Plantings shall be native species and/or be similar to vegetation in the surrounding area.

6.4 Shoreline Modification Regulations

6.4.1 General Requirements

1. Structural shoreline modifications shall only be allowed where it can be demonstrated that the proposed activities are

necessary to support or protect legally existing shoreline use or primary structure that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline or bedlands for an allowed water-dependent use or for shoreline mitigation or enhancement purposes.

2. Modifications shall only be allowed when impacts are avoided, minimized, and mitigated to assure no net loss of shoreline ecological functions.

3. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity). In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

6.4.2 Dredging and Dredge Material Disposal

6.4.2.1 Dredging

1. Non-maintenance dredging shall be avoided where possible. New dredging shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of ecological functions.

2. Maintenance dredging of established navigation channels and basins shall be restricted to managing previously dredged and/or existing authorized location, depth and width.

3. Dredging and dredge disposal shall be prohibited on or in archaeological sites that are listed on the National Register of Historic Places, the Washington Heritage Register, and/or the Clark County Historic Register until such time that they have been reviewed and approved by the appropriate agency.

4. New dredging activity is prohibited in the following locations:

   a. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered, or irretrievably lost;

   b. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity which result in the need for continual maintenance dredging;

   c. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish, or wildlife;

5. Dredging and dredge disposal shall be scheduled to protect biological productivity (including but not limited to, fish runs, spawning, and benthic productivity) and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (including but not limited to, drift netting and crabbing) during a fishing season unless specifically addressed and mitigated for in the permit.

6. Dredging techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only the amount of dredging necessary shall be permitted.

7. Dredging shall be permitted only:

    a. For navigation or navigational access;

    b. In conjunction with a water-dependent use of water bodies or adjacent shorelands;

    c. As part of an approved habitat improvement project;

    d. To improve water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;

    e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or

8. Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, any other significant restoration effort approved by a shoreline conditional use permit.

6.4.2.2 Dredge Material Disposal

1. Dredge material disposal shall be avoided where possible. Dredge disposal shall be permitted only where it is demonstrated that the proposed water-dependent or water-related uses will not result in significant or ongoing adverse impacts to water quality, fish and wildlife habitat conservation areas and other critical areas, flood holding capacity, natural drainage and water circulation patterns, significant plant communities, prime agricultural land, and public access to shorelines. When such impacts are unavoidable, they shall be minimized and mitigated such that they result in no net loss of functions.

2. Dredged material shall be disposed of on land only at sites reviewed and approved by the USACOE and the Shoreline Administrator. Applicants shall demonstrate that the proposed site will ultimately be suitable for a use permitted by this Program. Disposal shall be undertaken such that:

a. The smallest possible land area is affected, unless dispersed disposal is authorized as a condition of permit approval for soil enhancement or other purposes;

b. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water;

c. Erosion, sedimentation, floodwaters or runoff will not increase adverse impacts to shoreline ecological functions and processes or property; and

d. Sites will be adequately screened from view of local residents or passersby on public right-of-ways to the maximum extent practicable.

3. The following conditions shall apply to land disposal sites:

a. Underground springs and aquifers shall be identified and protected.

b. Containment dikes and adequate settling basins shall be built and maintained so that the water discharged from the site carries a minimum of suspended sediment. Required basins shall be designed to maintain at least one foot of standing water at all times to encourage proper settling.

c. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainage ways.

d. There shall be a single point of ingress and egress for removal of the de-watered material.

e. Runoff shall be directed through grassy swales or other treatment features that assures protection of water quality and a location that maximizes circulation and fishing.

f. Sites shall be revegetated with appropriate native species as soon as possible to retard erosion and restore wildlife habitat and other critical areas functions;

g. Vegetation shall be maintained by the property owner; and

h. Dredge materials deposited upland and not part of a permitted dike or levee shall constitute fill, and when deposited within the jurisdiction of this Program, shall comply with the fill regulations.

4. Dredged material shall be disposed of in water only at sites approved by the USACOE and the Administrator. Disposal techniques that cause minimum dispersal and broadcast of bottom material shall be used, and only if:

a. Land disposal is infeasible, less consistent with this Program, or prohibited by law;

b. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible;

c. Offshore habitat will be protected, restored, or enhanced;

d. Adverse effects on water quality or biologic resources from contaminated materials will be mitigated;

e. Shifting and dispersal of spoil will be minimal; and

f. Water quality will not be adversely affected.

5. The deposition of dredged materials in water or wetlands shall be permitted only:

   a. To improve wildlife habitat;

   b. To correct material distribution problems adversely affecting fish habitat;

   c. To create, expand, rehabilitate, or enhance a beach when permitted under this Program and any required state or federal permit;

   d. When land deposition is demonstrated to be more detrimental to shoreline resources than water deposition; or

   e. In approved, open-water disposal sites.

6. Near shore or landside disposal of dredge materials shall not be located upon, adversely affect, or diminish:

   a. Stream mouths, wetlands, or significant plant communities (approved mitigation plans may justify exceptions);

   b. Prime agricultural land except as enhancement;

   c. Natural resources including but not limited to sand and gravel deposits, timber, or natural recreational beaches and waters except for enhancement purposes;

   d. Designated or officially recognized wildlife habitat and concentration areas;

   e. Water quality, quantity, and drainage characteristics; and

   f. Public access to shorelines and water bodies.

6.4.3 Flood Control Works and In-stream Structures

6.4.3.1 Flood Control Works

1. Dikes and levees shall only be authorized by conditional use permit only when it can be demonstrated by a scientific and engineering analysis that:

   a. They are necessary to protect existing development;

b. Nonstructural measures are not feasible;

c. Impacts on ecological functions and critical areas can be successfully mitigated so as to assure not net loss; and

d. Appropriate vegetation conservation actions are undertaken.

2. Dikes and levees shall protect the natural processes and resource values associated with stream including but not limited to wildlife habitat.

3. Springs and aquifers shall be identified and protected.

4. Public access shall be provided in accordance with public access policies and regulations of the property owner and this master program.

5. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the protected flood stage as identified in the applicable comprehensive flood control management plan or as required by FEMA for dike recertification.

6. Dikes and levees shall not be constructed with material dredged from the adjacent wetland or stream area unless part of a comprehensive flood and habitat enhancement plan, and the only by conditional use.

7. Removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this Program, and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of shoreline ecological functions, and is part of a comprehensive flood management solution.

6.4.3.2 Flood Control Works – Design

1. Dikes and levees shall be designed, constructed, and maintained in accordance with Hydraulic Project Approval, and in consideration of resource agency requirements and recommendations.

2. Dikes and levees shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off point bars from the edge of the floodway, consideration should be given to their relocation in order to lower flood stages and current velocities.

3. Where dikes are necessary in intermediate gradient floodways to protect fringe areas, tangent diking is preferred over bank levees. Dikes and levees shall be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity.

4. Proper diversion of surface discharge shall be provided to maintain the integrity of the natural streams, wetlands, and drainages.

5. The outside face of dikes shall be sloped at 1.5:1 (horizontal to vertical) or flatter, and seeded with native grasses.

6. Structural flood hazard reduction measures shall be placed landward of associated wetlands and vegetation conservation areas unless there is no other feasible alternative to reduce flood hazard to existing development.

6.4.3.3 In-stream Structures

1. In-stream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The City may condition the permit to achieve this objective such as setbacks, buffers, or storage basins.

2. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.

3. In-stream structures shall provide for adequate upstream or downstream migration of anadromous fish, where applicable.

4. In-stream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided banks.

6.4.3.4 In-stream Structures – Design & Placement

1. In-stream structures and their support facilities shall be located and designed to avoid the necessity for shoreline defense structures. Shoreline defense structures shall be minimized and any impacts mitigated. All diversion structures shall be designed to permit natural transport of bedload materials.

2. Materials adequate to immediately correct emergency erosion situations shall be maintained on-site.

3. All debris, overburden and other waste materials from construction shall be disposed of in such a manner so as to prevent their entry into a water body, including a wetland, by erosion, from drainage, high water, or other vectoring mechanisms.

4. All heavy construction equipment, and fuel storage, repair, and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions. Powerhouses, but not raceways, shall be located farther than one hundred (100) feet from the OHWM unless there is no feasible alternative and any unavoidable impacts are minimized and mitigated. Penstocks shall be located, designed, and constructed so as to present as low a profile as possible. Powerhouses and penstocks shall be located and designed to return flow to the stream in as short a distance as possible.

5. A mitigation plan that details the objectives of the mitigation activities shall be prepared by the applicant, and be subject to approval by the appropriate authority.

6.4.4 Shoreline Restoration and Enhancement

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

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

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

4. 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 Clark County Coalition Shoreline Restoration Plan.

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

    a. The project will not be carried out within spawning, nesting, or breeding fish and wildlife habitat conservation areas;

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

    c. Water quality will not be degraded;

    d. Flood storage capacity will not be degraded;

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

    f. The project will not interfere with the normal public use of the navigable waters of the state.

6. The City shall review the projects for consistency with this Program 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 5.6)

6.4.5 Shoreline Stabilization – General

1. 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.

2. Proposed designs for new or expanded shore stabilization shall be designed in accordance with applicable Ecology and WDFW 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.

3. Land subdivisions or 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.

4. New or expanded structural shoreline stabilization for existing primary structures, including roads, railroads, 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 years as a result of shoreline erosion caused by stream processor waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes.

5. 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, 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 OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. Proposed designs for new or expanded shore stabilization shall be in accordance with applicable Ecology and WDFW guidelines and certified by a qualified professional.

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

7. Shoreline stabilization projects that are part of a fish habitat enhancement project meeting the criteria of RCW 77.55.181 are exempt and will be regulated under the state process. Stabilization projects that are not part of such a fish enhancement project will be regulated by this Program.

8. 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.

9. 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.

10. 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.

6.4.5.1 Bioengineered Stabilization

1. Bioengineered projects shall be designed in accordance with best available science.

2. All bioengineered projects shall be designed in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.

3. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that within three years time all vegetation is fully re-established. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable.

4. Bank protection in the form of a buffer zone shall be provided for a minimum of three (3) years. The buffer zone shall exclude livestock, vehicles, and/or other activities that could disturb the site.

5. All bioengineered projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

6. All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

6.4.5.2 Structural Stabilization

1. Naturally regenerating systems for the prevention and control of shoreline erosion shall be used instead of structural solutions where (1) the length and configuration of shoreline will accommodate such systems; (2) such protection is a reasonable solution to the needs of the specific site; and (3) the project will:

    a. Recreate or enhance natural shoreline conditions;

    b. Create or enhance natural habitat;

c. Reverse otherwise erosional conditions; or

d. Enhance access to the shoreline, especially to public shorelines.

Bulkheads - General

1. All bulkheads must be in support of an allowable shoreline use that is in conformance with the provisions of this master program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

2. Bulkheads shall be allowed only when evidence is presented that conclusively demonstrates that one of the following conditions exists:

   a. Serious wave erosion threatens an established primary use or existing primary building(s) on upland property;

   b. Bulkheads are necessary to the operation and location of water-dependent and water-related activities consistent with this master program, provided that all alternatives have proven infeasible (i.e., use relocation, use design, nonstructural shore stabilization options), and that such bulkheads meet other policies and regulations of this chapter; or

   c. Proposals for bulkheads have first demonstrated that use of natural materials and processes and nonstructural solutions to bank stabilization are unworkable in protecting existing development.

3. Use of a bulkhead to protect a platted lot where no structure presently exists is prohibited.

4. Natural materials and processes such as protective berms, drift logs, brush, beach feeding, or vegetative stabilization shall be utilized to the maximum extent possible.

5. The construction of a bulkhead for the primary purpose of retaining or creating dry land that is not specifically authorized as a part of the permit shall be prohibited.

6. Bulkheads are prohibited for any purpose if they will cause significant erosion or beach starvation.

Bulkhead Location

1. Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marches, wetlands, or accretion shoreforms such as spits, hooks, bars, or barrier beaches.

2. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface, and subsurface drainage are suitable.

3. On all shorelines, bulkheads shall be located landward of the OHWM, landward of protective berms (artificial or natural), and generally parallel to the natural shoreline. In addition:

    a. On bluff or bank shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the bank as possible, and in no case shall it be more than three (3) feet waterward from the toe of the natural bank.

    b. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that (1) the adjoining bulkheads were built at or near the OHWM, and (2) the new bulkhead does not extend more than three feet waterward of OHWM at any point. If there is an existing bulkhead on only one of the adjacent properties, the proposed bulkhead may tie in flush with the adjacent bulkhead at or landward of the OHWM, and shall be contoured to minimize the land area waterward of the required setback, that shall be met on the side not abutting an existing bulkhead.

4. Replacement bulkheads may be located immediately in front of and abutting (sharing a common surface) an existing bulkhead, provided that replacement bulkheads shall not be authorized abutting an abandoned or neglected bulkhead, or a bulkhead in serious disrepair that is located more than three feet waterward of OHWM. Replacement of such bulkheads shall be located at OHWM.

Bulkhead Design

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations, including the WDFW criteria governing the design of bulkheads.

2. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.

3. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development for the expected life of the development.

4. Bulkheads shall be designed to permit the passage of surface or ground water without causing ponding or saturation of retained soil/materials.

5. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.

6. Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of it.

7. Materials used in bulkhead construction shall meet the following standards:

    a. Bulkheads shall utilize stable, non-erosional, homogeneous materials such as concrete, wood, rock riprap, or other suitable materials that will accomplish

the desired end with the maximum preservation of natural shoreline characteristics.

b. Beach materials shall not be used for fill behind bulkheads unless it is specifically authorized by the permit, and then only when it is demonstrated that leaving the material on the beach would be detrimental to shoreline resources.

8. Gabions (wire mesh filled with concrete or rocks) shall not be used in bulkhead construction where alternatives more consistent with this Program are feasible, because of their limited durability and the potential hazard to shore users and the shoreline environment.

9. Fill behind bulkheads shall be considered landfill, and shall be subject to the provisions for landfill, and the requirement for obtaining a shoreline substantial development permit.

Revetments - General

1. Revetments must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program, unless it can be demonstrated that such activities are necessary and in the public interest for the maintenance of shoreline environmental resources.

2. Design of revetments shall include and provide improved access to public shorelines whenever possible and appropriate. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.

3. Design of the proposed revetment shall incorporate proper consideration of a) data on local geophysical conditions; b) data on stream flow, velocity, and/or flood capacity; and c) effects on adjacent properties

4. Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.

5. Revetments shall only be used when habitat-friendly alternatives are not feasible.

Revetment - Design

1. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the Natural Resources Conservation Service and the U. S. Army Corps of Engineers.

2. Revetment shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water quality, vegetation, and aesthetics. The following techniques and materials shall be used:

a. Riprap material shall consist of clean quarried rock, free of loose dirt and any pollutants, and shall be of sufficient size and weight to prevent movement by wave or current action. Tires, automobile bodies, scrap metal paper products, and other inappropriate solid waste materials shall not be used for riprap.

b. Use of downed logs, snags, or rock-work to enhance habitat and to provide a more natural appearance to the shoreline shall be incorporated into the design where appropriate.

c. Where on-site environmental conditions allow, vegetation shall be integrated into the riprap design to reduce erosion, provide cover, shade and habitat, and improve the natural appearance of the shoreline, consistent with the applicable vegetation management provisions of this master program.

3. If an armored revetment is employed, the following design criteria shall be met.

   a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;

   b. Filter cloth must be used to aid drainage and help prevent settling; and

   c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from river scouring or wave action for the anticipated life of the project.

4. The area shall be restored as nearly as possible to pre-project condition, including replanting with native species and maintenance care until the newly planted vegetation is established.

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CHAPTER 7 ADMINISTRATION AND ENFORCEMENT

7.1 General Provisions

1. All proposed uses and development occurring within a shoreline jurisdiction must conform to the Shoreline Management Act (SMA) and this Program (SMP). The policies and regulations of this Program apply to all shoreline uses and developments within the shoreline jurisdiction whether or not a shoreline permit or statement of exemption is required.

2. The requirements of this Program are only applicable within the City's shoreline jurisdiction.

3. Classification of a use or development as permitted does not necessarily mean the use/development is allowed. It means the use/development may be allowed subject to review and approval by the City and/or Ecology. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program. To be authorized under this Program, all uses and developments shall be planned and carried out in a manner that is consistent with the City codes and this Program regardless of whether a shoreline substantial development permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

4. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.

5. Applicants shall submit all information and documentation determined by the Shoreline Administrator as necessary to process an application.

6. The Shoreline Administrator has the authority to interpret and apply the provisions of this Program. The Shoreline Administrator shall consult with Ecology to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.

7. The City shall not issue any permit for development within the shoreline jurisdiction until approval has been granted pursuant to this Program.

8. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.

9. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.

10. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations.

11. All shoreline permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the Shoreline Administrator, documenting compliance with bulk and dimensional policies and regulations of this Program. The Shoreline Administrator may attach conditions to the approval as necessary to assure consistency with the RCW 90.58 and this Program. Such conditions may include a requirement to post a performance bond assuring compliance with permit requirements, terms and conditions.

12. Proposed actions that would alter designated critical areas or their buffers, as established by this Program (Chapter 5) shall be reviewed for compliance with this Program. If required, the applicable critical area report and/or mitigation plan and/or habitat management plan shall be submitted as part of the development application or request for statement of exemption. The critical area review shall be conducted and processed in conjunction with the highest threshold of review that is applicable to the primary development proposed:

    a. Review pursuant to SMP Chapter 2 (List of Exemptions);

    b. Land Use Permit or Building Permit;

    c. Excavation, Grading, Clearing and Erosion Control Permit;

    d. SEPA Threshold Determination;

    e. Shoreline Substantial Development Permit;

    f. Shoreline Conditional Use Permit; or

    g. Shoreline Variance.

7.2 Administrative Authority and Responsibility

7.2.1 Shoreline Administrator

1. The responsible official or his/her designee is the Shoreline Administrator for the City.

2. The Shoreline Administrator shall have the authority to act upon the following matters:

    a. Interpretation, enforcement, and administration of the City's Shoreline Master Program as prescribed in this title;

b. Applications for Shoreline Management Substantial Development Permits;

c. Applications for Shoreline Conditional Use Permits;

d. Applications for Shoreline Variances;

e. Modifications or revisions to any of the above approvals;

f. Requests for statements of exemption.

3. The Shoreline Administrator shall document all project review actions in shoreline areas in order to periodically evaluate the cumulative effects of authorized development on shoreline conditions per WAC 173-26-191.

7.2.2 City Planning Commission

1. The City Planning Commission shall be responsible for hearing and making recommendations for action to the City Council on the following types of matters:

   a. Amendments to the Shoreline Master Program. Any of the provisions of this Program may be amended as provided for in WAC 173-26-100.

   b. Review and adjustments. Periodic review of this Program shall be conducted as required by state law and regulations RCW 90.58.080(4). Adjustments shall be made as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26-090 and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

7.2.3 City Council

1. The City Council shall be responsible for making final determinations on amendments to the Shoreline Master Program, for review and approval by Ecology, which shall be adopted by ordinance. The Council shall enter findings and conclusions setting forth the factors it considered in reaching its decision.

2. The City shall periodically review this Program and make adjustments as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

3. The City shall conduct a comprehensive review of this Program on or before June 30, 2020, and every eight years thereafter, to assure that the Program: a) complies with applicable laws and guidelines in effect at the time of the review; and b) to

assure consistency with the City comprehensive plan and development regulations adopted under RCW 36.70A and other local requirements.

4. Any of the provisions of this Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Amendments or revision to this Program, as provided by law, do not become effective until approved by Ecology.

5. Proposals for shoreline re-designation (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in WAC 173-22-040.

7.2.4 City Hearing Examiner

1. The City Hearing Examiner shall be responsible for making City final determinations on:

    a. Applications for Shoreline Conditional Use Permits

    b. Applications for Shoreline Variances; and

    c. Applications for Shorelines Substantial Developments in conjunction with a required Shoreline Conditional Use Permit or Shoreline Variance

    d. Appeals of Statement of Exemptions

    e. Appeals of Shoreline Substantial Development Permit; and

    f. Appeals of revisions to Statements of Exemption and Shoreline Substantial Development Permits.

7.2.5 State Department of Ecology and Attorney General

1. The duties and responsibilities of Ecology shall include, but are not limited to the following:

    a. Reviewing and approving Program amendments prepared by the City pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).

    b. Amendments or revisions to the Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

    c. Final approval and authority to condition or deny Shoreline Conditional Use Permits and Shoreline Variance Permits filed by the City.

2. The Attorney General has the authority to review and petition for review City's permit decisions. Petitions for review must be commenced within twenty one (21) days from the date the final decision was filed.

7.3 Ecology Review

1. Ecology shall be notified of any Substantial Development, Conditional Use or Variance Permit decisions made by the Shoreline Administrator (or Hearing Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a Substantial Development Permit and either Conditional Use or Variance Permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General:

   a. A copy of the complete application per WAC 173-27-180;

   b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

   c. The final decision of the City;

   d. The permit data sheet per WAC 173-27-990;

   e. Affidavit of public notice; and

   f. Where applicable, the Shoreline Administrator shall also file the applicable documents required by the State Environmental Policy Act (RCW 43.21C).

   When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicates the final approved plan.

   If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on Conditional Use or Variance Permit submittals until the material requested in writing is submitted to them.

   Ecology shall convey to the City and applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.

   Ecology shall base its determination to approve, approve with conditions or deny a Conditional Use Permit or Variance Permit on consistency with the policy and provisions of the SMA and the criteria listed in this Program.

Appeals of Ecology decisions on conditional use and variances requests shall be made to the Shorelines Hearing Board as specified in Section 7.5.3.

7.4 Public Notice Requirements

1. A notice of application, comment periods, decisions, public hearings, and appeal hearings on applications and decisions associated with shoreline substantial development permits, shoreline conditional uses and shoreline variances shall be as provided in BGMC Chapter 17.200, with the exception that the public comment period shall be at least 30 days (WAC 173-27-110 (2) (E)…

2. In addition, copies of the original application and other pertinent materials used in the final shoreline permit decision shall be sent to the State in accordance with state regulations, and, pursuant to RCW 90.58 or 43.21C. The permit and any other written evidence of the final order of the City relative to a permit application, shall be transmitted by the Shoreline Administrator to the Attorney General of the State of Washington and to Ecology in accordance with WAC 173-27-130 and RCW 90.58.140(6).

7.5 Appeals

The purpose of this section is to cross-reference the procedures for appealing administrative decisions on land use proposals. The provisions of this section shall apply to any order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator. These may include, but are not limited to, variances, land divisions, wetland/stream development, site approval, and conditional use permits, modifications to permits, interpretations of land use regulatory codes, and decisions for the imposition of fines.

7.5.1 Filing Appeals

1. Any decision or ruling of the Shoreline Administrator may be reconsidered upon a request for reconsideration within seven (7) days of the date of issuance of the decision. Applicants may be appeal the initial notice of decision or subsequent reconsideration to the City Hearings Examiner.

   The Hearing Examiner shall hold a public hearing, conduct adjudicative proceedings, maintain a record thereof, and enter findings of facts, conclusions of law, and a final decision or other order as appropriate.

   Time Limit for Appealing. Appeals from decisions or rulings of the Shoreline Administrator shall be made within fourteen (14) calendar days of the date of the written order or within seven (7) calendar days of the date of issuance of the decision on a request for reconsideration, not counting the day of issuance of the

decision. If the last day for filing an appeal falls on a weekend day or a holiday, the last day for filing shall be the next working day.

Form of Appeal. An appeal of the Shoreline Administrator shall take the form of a written statement of the alleged reason(s) the decision was in error, or specifying the grounds for appeal. The following information, accompanied by an appeal fee as specified in BGMC Chapter 17.200, shall be submitted:

a. An indication of facts that establish the appellant's right to appeal.

b. An identification of explicit exceptions and objections to the decision being appealed, or an identification of specific errors in fact or conclusion.

c. The requested relief from the decision being appealed.

d. Any other information reasonably necessary to make a decision on the appeal.

e. Appeals shall be filed with the Office of the Hearing Examiner according to BGMC Chapter17.200.

7.5.2 Hearings

1. Applications which require an open-record hearing shall be considered by the Hearing Examiner. When an open-record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently. Therefore, in this situation, applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow consideration of all land use actions concurrently.

2. The Hearing Examiner shall consider concurrently all related land use permit applications for a specific site, and any accompanying environmental appeal under BGMC Chapter 18.145. Applications for which the Shoreline Administrator has authority shall be transferred to the jurisdiction of the Hearing Examiner to allow concurrent consideration of all land use actions, as prescribed in BGMC Chapter 17.200.

3. Any decision or ruling of the Hearing Examiner on a shoreline substantial development permit may be appealed to the State Shorelines Hearing Board.

7.5.3 State Shorelines Hearing Board

1. Appeals of any final permit decision may be made to the Shorelines Hearing Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings).

2. All appeals of any final permit decision must be made to the Shorelines Hearing Board within twenty-one (21) days after the City's or Ecology's final decision concerning the shoreline permit or formal approval to revisions of the permit.

7.6 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the decision was filed or until all review proceedings are terminated.

2. Construction may be commenced no sooner than thirty (30) days after the date the appeal of the Shorelines Hearings Board's decision is filed if a permit is granted by the City of Battle Ground , and

    a. the granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of receipt;

    b. the Shoreline Hearings Board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and

    c. an appeal for judicial review of the Shoreline Hearings Board decision is filed pursuant to chapter 34.05 RCW.

3. Any applicant who wishes to begin construction pursuant to this section prior to termination of all review proceedings does so at the applicant's own risk.

4. Construction may be commenced no sooner than thirty (30) days after the date of receipt of a judicial appeal of a decision of the Shoreline Hearings Board approving Ecology's decision to grant the shoreline substantial development permit or approving a portion of the substantial development for which the permit was granted unless construction is prohibited until all Superior Court review proceedings are final after judicial hearing as provided in RCW 90.58.140. Any applicant who wishes to begin construction pursuant to this section prior to termination of all review proceedings does so at the applicant's own risk.

5. Construction activities shall be commenced, or where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to the department.

6. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

7.7 Enforcement

7.7.1 General Enforcement

1. The enforcement provisions of RCW 90.58.210 and WAC 173-27-240 through 173-27-310 shall apply.

2. The Shoreline Management Act calls for a cooperative enforcement program between local and state government. It provides for both civil and criminal penalties, orders to cease and desist, orders to take corrective action and permit rescission. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

3. The Shoreline Administrator, and/or authorized representative, shall have the authority to enforce the shoreline regulations of the City.

4. The Shoreline Administrator with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by this Program.

5. These shoreline regulations shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

6. No provision of, or term used in, this code is intended to impose upon the City, or any of its officers or employee, any duty which would subject them to damages in a civil action.

7. The Shoreline Administrator shall have the authority to request evidence of a statement of exemption for any development or use if s/he has cause to believe a substantial question exists as to qualifications of a use, development, or activity as an exemption or there is a likelihood of adverse impacts to shoreline ecological functions.

7.7.2 Investigation and Notice of Violation

1. An investigation shall be made of any structure or use which the City reasonably believes does not comply with the standards and requirements of this Program.

2. If, after an investigation, it is determined that the standards or requirements of this title have been violated, a notice of violation shall be served, by first class mail, upon the owner, tenant or other person responsible for the condition.

3. The compliance period shall not be less than two weeks, except where substantial life safety issues exist.

7.7.3 Penalties

1. Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of this Program, and rules or regulations adopted pursuant thereto, shall be subject to the penalty provisions of the BGMC Chapter 20.102.050.

7.7.4 Violations – Subsequent Development and Building Permits

1. No building permit or other development permit shall be issued for any parcel of land developed or divided in violation of this Program. All purchasers or transferees of property shall comply with provisions of the Act and this Program and each purchaser of transferee may recover damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or this Program. Damages may include any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or this Program as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor, as an alternative to conforming their property to these requirements, may rescind the sale, transfer, or lease and recover costs of investigation, litigation and reasonable attorney's fees occasioned thereby from the violator.

7.8 Public and Private Redress

1. Any person subject to the regulatory program of this Program who violates any provision of this Program or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation.

2. The City Attorney may bring suit for damages under this section on behalf of the City. Nothing in this section precludes private persons from bringing suit for damages on their own behalf. If liability has been established for the cost of restoring an area affected by violation, the court shall make provisions to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the court, in its discretion, may award attorneys' fees and costs of the suit to the prevailing party.

7.9 Fees for Permits Obtained after Development

1. Permits obtained following, rather than prior to, the commencement of a development or use shall be three (3) times the normal amount. This provision is in addition to the enforcement measures contained in this chapter and in BGMC Chapter 20.102.

2. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

7.10 Revocation of Permits

1. When required, corrective action shall be completed within ninety (90) days of the issuance of the order of the Shoreline Administrator.

2. If Ecology is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If Ecology is of the opinion that the noncompliance continues to exist thirty (30) days after the date of the notice, and the local government has taken no action to revoke the permit, Ecology may petition the Shorelines Hearings Board for a revocation of the permit upon written notice of the petition to the local government and the permittee if the request by Ecology is made to the hearings board within fifteen (15) days of the end of the thirty- (30-) day notice to the local government. 4. Should a discretionary shoreline permit be revoked, the use rights attached to the site and/or structure in question shall revert to uses permitted outright in the underlying zoning district, subject to all development standards contained therein

3. Revocation of a permit does not preclude the assessment of penalties in Section 7.7. Appeals of the revocation order shall be in accordance with Section 7.5.

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CHAPTER 8 DEFINITIONS

For purposes of the Program, the following definitions shall apply. Additional definitions applicable to this Program can be found in the Battle Ground Municipal Code.

A

1. **Accessory Structure** – a subordinate building or use incidental to the use of the main building or use.
2. **Accessory Use** – any use or activity incidental and subordinate to a primary use or development.
3. **Accretion** – the growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks, and tombolos.
4. **Act** - Washington State Shoreline Management Act of 1971, as amended, RCW 90.58.
5. **Adjacent -** having a common end point or border.
6. **Adjacent Lands** – lands adjacent to the shorelines of the state (outside of shoreline jurisdiction) *(RCW 90.58.340)*.
7. **Agricultural Activities -** agricultural uses and practices including, but not limited to: producing, breeding or increasing agricultural products; rotating and changing agricultural crops; agricultural crops; allowing land used for agricultural activities to lie fallow in that 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 *(WAC 173-26-020(3)(a))*.
8. **Agricultural Land** – those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to the state guidelines adopted December 17, 2003, 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.
9. **Amendment -** means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.
10. **Anadromous fish -**Fish that migrate downstream in their juvenile life stages; live their adult lives in the ocean then migrate upstream from the ocean to breed in fresh water.

11. **Appurtenance -** A structure or development normally and necessarily connected to a primary use. Normal appurtenance includes a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field and grading, which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program.

12. **Aquaculture -** The cultivation or farming of food fish, shellfish, or other aquatic plants and animals (WAC 173-26-241(3) (b)).

13. **Associated Wetlands -** Those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake, river or stream subject to the Shoreline Management Act**.**

14. **Average Grade Level -** the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that 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 *(WAC 173-27-030(3))*.

B

15. **Beach Enhancement/Restoration** – process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation drift sills, and other non-intrusive means as applicable.

16. **Beds of Navigable Waters -** or "**Bedlands**" means those submerged lands, including tidelands where appropriate, underlying navigable waters.

17. **Berm** – a linear mound or series of mounds of earth, sand and/or gravel generally paralleling the water at or landward of the line of ordinary high-water. Also a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

18. **Best Available Science** – use of the most reliable and available scientific information, most often used in the context of local government compliance with the State Growth Management Act (RCW 36.70A.172) for developing policies and development regulations regarding critical areas (WAC 365-195).

19. **Best Available Technology (BAT)** – the most effective method, technique, or product available that is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably low maintenance.

20. **Best Management Practices (BMP) -** Systems of practices and management measures that:

    1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and

2. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of fish and wildlife habitat conservation areas, wetlands and buffers.

21. **Bioengineering -** means project designs or construction methods that use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank that is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation *(WAC 220-110-020(12))*.

22. **Boat** - See "Vessel."

23. **Boating Facility** - a facility or structure providing access in and out of the water for vessels, such as marinas, launching ramps, rails, or lift station. For purposes of the Shoreline Master Program, boating facilities excludes docks serving four or fewer single-family residences.

24. **Boat House** - A structure designed for storage of vessels located over water (not to be confused with houseboats).

25. **Boat Launch or Ramp** – a facility with graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

26. **Bog** – see "Wetland."

27. **Breakwater** - a structure aligned parallel to shore, sometimes shore-connected, that provides protection from waves.

28. **Buffer Area** – A strip of land that is designed and designated to permanently remain vegetated in an undeveloped condition to protect an adjacent aquatic or wetland resource from landward impacts, improve water quality, and to provide habitat for fish and wildlife.

29. **Bulkhead** - a solid, open-pile, or irregular wall of rock, rip-rap, concrete, steel, or timber or combination of these materials erected parallel to and near ordinary high water mark to provide a protective vertical wall resistant to water and wave action.

30. **Buoy -** See "Mooring Buoy."

C

31. **Channel** – an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock watering channels *(WAC 173-27-030(8b))*. See also stream.

32. **Channel Migration Zone (CMZ)** - the area along a river within that 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.

33. **Chord Diking** – a means of utilizing small dikes or berms setback from the streamway of a river far enough to allow for the natural meandering and side channel formation to occur within the diked-off corridor.

34. **Clean Water Act** – the primary federal law providing water pollution prevention and control previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

35. **Clearing -** the destruction or removal of vegetation from a site by physical, mechanical, chemical or other means. This does not include landscape maintenance or pruning consistent with accepted horticultural practices, such as those recommended by the Washington State University Extension Service, which does not impair the health or survival of the trees or native vegetation.

36. **Commercial -** a business use or activity at a scale greater than a home business or cottage industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include restaurants, offices, and retail shops.

37. **Commercial Fishing -** is the activity of capturing fish and other seafood under a commercial license.

38. **Conditional Use** – a use, development, or substantial development that is classified as a conditional use, or is not classified within the Master Program, and requires a conditional use permit. See WAC 123.27.160.

39. **Covered Moorage** – Boat moorage, with or without walls, that has a roof to protect a vessel.

40. **Critical Aquifer Recharge Area -** Areas with a critical recharging effect on aquifers used for potable water as defined by the Washington State Growth Management Act.

41. **Critical Areas -** include fish and wildlife habitat conservation areas, wetlands, frequently flooded areas, critical aquifer recharge areas, and geologic hazard areas.

42. **Critical Habitat**- Specific geographical areas that possess physical or biological features that are essential to the conservation of federally listed species. These designated areas may require special management considerations or protection.

43. **Critical Freshwater Habitat -** include those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and floodplains designated as such.

D

44. **Date of filing** -means the date of actual receipt by Ecology of the City's decision.

- For a substantial development permit variance or conditional use permit, the date of filing is the date Ecology's decision is transmitted to the County.
- For a variance or conditional use permit decision in conjunction with a shoreline substantial development permit decision, the date of filing is the date Ecology's decision is transmitted to the City.

45. **Development -** an activity consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that may interfere with the normal public use of the surface of the waters overlying lands subject to the Shorelines Management Act of 1971 at any state of water level *(RCW 90.58.030(3d))*.

46. **Development Regulations -** the controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under RCW 90.58, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto *(WAC 173-26-020(8))*.

47. **Dike -** is an artificial embankment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

48. **Dock -** a landing or moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.

49. **Document of Record –** the most current shoreline master program officially approved or adopted by rule by Ecology for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

50. **Dolphin –** A cluster of piles bound together**.**

51. **Dredge Spoil** or **Dredge Material** – the material removed by dredging.

52. **Dredging -** is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, or debris from below the OHWM of any stream, river, lake, or water body or wetland.

53. **Dredging, Maintenance -** refers to dredging for the purpose of maintaining a prescribed minimum depth previously authorized by a federal, state, and/or local permit as part of any specific waterway project. Maintenance dredging also includes dredging that maintains the previously authorized width of a channel, boat basin or berthing area.

54. **Dredging, Non-maintenance –** Any dredging that is not maintenance dredging.

E

55. **Ecological Functions** or **Shoreline Functions -** the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments which constitute the shoreline's natural ecosystem *(WAC 173-26-200 (2)(c))*.

56. **Ecosystem-wide Processes -** the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions *(WAC 173-26-020(14))*.

57. **Effective Date of Permit -** Shoreline Substantial Development, Conditional Use and Variance Permits shall be the date of filing as provided in RCW 90.58.140(6) that includes completion of all appeals or legal actions.

58. **Emergency/Emergency Construction -** 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 WAC 173-27. Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur, but are not imminent, are not an emergency *(RCW 90.58.030(3) (e) (iii) and WAC 173-14-040(1) (d), (2), and (3))*.

59. **Enhancement** - Alterations performed to improve the condition of an existing degraded area so that the functions provided are of a higher quality. Enhancements are to be distinguished from resource creation or restoration projects.

60. **Erosion** – The general process or the group of processes whereby the material of the earth's crust are loosened, dissolved, or worn away, and simultaneously moved from one place to another, by natural forces, that include weathering, solution, corrosion, and transportation, but usually exclude mass wasting (American Geological Institute, 1998).

61. **Essential Public Facilities –** are broadly defined as being those types of facilities that are typically difficult to site. This definition includes but is not limited to, airports, state education facilities, state and regional transportation facilities, state and local correctional facilities, solid waste handling facilities, medical care facilities, mental health facilities, and group homes *(WAC 36.70A.200(1))*.

62. **Exempt/Exemption -** developments that are set forth in Chapter 2 (Exemptions from Substantial Development Permit) of this Program that are not required to obtain a Shoreline Substantial Development Permit, but which must otherwise comply with applicable provisions of the act and the local master program.

F

63. **Fair Market Value -** the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials *(WAC 173-27-030(8))*.

64. **Feasible -** 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.

65. **Feeder Bluff -** any bluff (or cliff) experiencing periodic erosion from waves, sliding, slumping, whose eroded earth, sand, or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.

66. **Feedlot** – an enclosure or facility, of any size used or capable of being used for confinement feeding of livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or pasture for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations *(RCW 90.58.030(3e)(iv); WAC 173-27-040(1e))*.

67. **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 *(WAC 173-26-020(14))*.

68. **Fill, Speculative –** means the placement of fill material not associated with an approved project.

69. **Fish and Wildlife Habitat Conservation Areas -** Fish and Wildlife Habitat Conservation Areas include habitat for Endangered, Threatened and Sensitive species; Priority Habitats and areas associated with Priority Species; Habitats of Local Importance, and water bodies, and are generally designated as critical areas in local government development regulations.

70. **Fish Habitat Enhancement Project** – a fish habitat enhancement project specifically meeting the criteria established in RCW 77.55.181 that allows for an expedited WDFW review and approval.

71. **Float -** a fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and that provides landing for water dependent recreation or moorage for vessels or watercraft.

72. **Floating Home -** a structure designed and operated substantially as a permanently-based, over-water residence. Floating homes are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities. (Also see "houseboat")

73. **Floodway Fringe -** the area of land lying between the outer limit lines of the floodway and the outer limit lines of the area of special flood hazard.

74. **Flood Hazard Reduction** - measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural or indirect measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, bioengineering measures, and storm water management programs; and of structural measures, such as dikes, levees, and floodwalls intended to contain flow within the channel, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

75. **Floodplain -** synonymous with the one hundred-year floodplain and refers to the 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 that meets the objectives of the act *(WAC 173-26-020(15))*.

76. **Floodway** - means the area, as identified in this master program that has been established in federal emergency management agency flood insurance rate maps or floodway map. 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 (RCW 90.58.030(2)(b)).

77. **Forb** - an herbaceous, non-woody plant other than grass.

78. **Foreshore –** in general terms, the beach between mean higher high water and mean lower low water.

79. **Forest Practices** – any activity conducted on or directly related to forest land and relating to growing, harvesting, or processing timber. These activities include but are not limited to: road and trail construction, final and intermediate harvesting, pre-commercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control *(WAC 222-16-010(21))*.

80. **Frequently Flooded Areas -** the areas of special flood hazard which are commonly identified as critical areas in local government development regulations.

G

81. **Gabions** – structures composed of masses of rocks, rubble, or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action, to reduce mass wasting, or as foundations for breakwaters or jetties.

82. **Geologic Hazard Areas -** include areas of landslide, liquefaction and dynamic settlement, ground shaking amplification, fault rupture, soil erosion, and bank erosion hazard areas often identified as critical areas in local government development regulations.

83. **Geotechnical Report** - or "geotechnical analysis" means a scientific study or evaluation of geological, hydrological, geochemical, and/or geomorphological aspect(s) of a site conducted by a qualified expert.

84. **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 *(WAC 173-26-020(17))*.

85. **Grassy Swale** – a vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

86. **Groin** or "spur dike" or "rock weir" - a barrier-type structure extending from the backshore or stream bank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of material.

87. **Groundwater -** That part of the subsurface water that is in the saturated zone, including underground streams, from which wells, springs, and ground water runoff are supplied. The saturated zone is a subsurface zone in which all interstices are filled with water under pressure greater than that of the atmosphere. This zone is separated from the unsaturated zone (above) by the water table (Jackson, 1997).

H

88. **Hazardous Material** - any product, substance, commodity, or waste in liquid, solid or gaseous form that exhibits a characteristic that presents a risk to water resources. Risk may be due to ignitability, toxicity, reactivity, instability, corrosivity or persistence. This definition extends to all "dangerous wastes" and "hazardous substances" that are defined in WAC 173-303 (State Dangerous Waste Regulations). It also includes the chemicals and/or substances that are defined in the federal Emergency Planning and Community Right to Know Act (EPCRA) and/or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

89. **Hearings Board** – See "Shorelines Hearings Board."

90. **Height -** the distance measured from the average grade level to the highest point of a structure: Provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines (or the master program provides otherwise): Provided further that temporary construction equipment is excluded in this calculation (WAC 173-27-030 (9).

91. **Hook** – a spit or narrow cape of sand or gravel that turns landward at its outer end.

92. **Houseboat** or **Live-aboard Vessel** - a vessel, principally used as an over-water residence. (Principal use as an over-water residence means that it is occupied in a single location for a period exceeding two months in any one calendar year.) Houseboats are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the presence of adequate self-propulsion and steering equipment to operate as a vessel. (Houseboats should not be confused with boathouses.)

I

93. In-kind Replacement – replacing an object or structure or part of an object or structure with an identical or nearly identical object or structure with regard to materials and dimensions; in a biological context, replace wetlands biota, or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced, or degraded by an activity.

94. Institutional Facility – structure(s) and related grounds used by organizations for the provision of educational, medical, cultural, social and/or recreational services to the community, including but not limited to such uses as schools, colleges, museums, community centers.

95. In-stream Structure - a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose. In-stream structure does not apply to stormwater outfalls.

96. Interested Party – means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030 *(WAC 173-27-030(12)).*

97. Invasive – means a nonnative plant or animal species that either:

a. causes or may cause significant displacement in range, a reduction in abundance, , or otherwise threatens, native species in their natural communities;
b. Threatens or may threaten natural resources or their use in the state;
c. Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or
d. Threatens or harms human health (RCW 77.08.010(28)).

J

98. Jetty- a structure usually projecting out into the water for the purpose of protecting a navigation channel, a harbor, or to influence water currents.

99. Joint-use moorage facility – means a moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. A joint-use moorage facility is a marina if:

- It provides commercial goods or services;
- It is of a large scale (more than ten slips);
- Moorage is proposed to be leased to upland property owners; or
- The proposal includes a boat launching facility other than a ramp.

L

100. Lacustrine - (also lacustrian) – of, on, or pertaining to lakes**.**

101. Lake – a body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of elevation of the lake's ordinary high water mark within the stream *(RCW 90.58.030(Id); WAC 173-20-030; WAC 173-22-030(4)).*

102. Large Woody Debris - Shrubs, trees, or their branches that have fallen and are on the ground or in, across, or dangling above streams, rivers, lakes, or ponds.

103. Levee – a large dike or embankment, often having an access road along the top that is designed as part of a system to project land from floods.

104. Limited Utility Extension – the extension of a utility service that is categorically exempt under RCW 43.21C for natural gas, electricity, telephone, water or sewer to service an existing use and will not extend more than twenty-five hundred (2500) linear feet within the shorelines of the state.

105. Littoral – The area of the shore from the OHWM waterward to a depth of two meters below ordinary low water or to the maximum extent of non-persistent emergent plants.

106. Littoral Drift –The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and current.

107. Live-aboard Vessel – See "Houseboat."

108. Local Government – any county, incorporated city, or town that contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

109. Log Booming – includes the placement or removal of logs and log bundles into and from the water, and the assembly and disassembly of rafts for waterborne transportation.

M

110. Marina - a water-dependent commercial use that consists of a system of piers, buoys, or floats which provides moorage for at least ten boats. For the purposes of this Program, large community moorage facilities, yacht club facilities, and camp or resort moorage areas are also considered marinas. Boat launch facilities and supplies and services for small commercial or pleasure craft are often associated with marinas. Uses accessory to marinas may include fuel docks and storage, boating equipment sales and rental, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, and dry goods.

"Foreshore marinas" are marinas located waterward of the ordinary high water mark.

"Backshore marinas" are marinas located landward of the ordinary high water mark. There are two common types of backshore marinas: (1) a wet-moorage marina that is dredged out of the land artificially creating a basin; and (2) a dry-moorage marina that has upland storage with a hoist, marine travel lift, or ramp for water access.

111. Marine Travel Lift – a mechanical device that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

112. Marine Railway – a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

113. May - means the action is acceptable, provided it conforms to the provisions of this Program.

114. Merchantable Trees - live trees, 6 inches in diameter at breast height (DBH) and larger, unless documentation of current, local market conditions are submitted and accepted by the local jurisdiction indicating non-marketability. "Merchantable trees" shall not include trees smaller than 4 inches DBH.

115. Mining - the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses *(WAC 173-26-241)*.

116. Mitigation – to avoid, minimize or compensate for adverse impacts to shoreline ecological functions and processes as per WAC 173.26.201 (2) (e) and noted in Chapter 5, Sections 5.1.2 & 5.3.2.(13).

117. Mitigation, Compensatory – an action to reduce the severity of effects from an action that may cause potential impacts to functions and values of critical areas and their buffers.

118. Mixed-use Project - developments that include a combination of components, such as residential uses, hotels, marinas, habitat improvement actions, public access provisions, and other uses.

119. **Mobile/Manufactured Home** – a residential unit on one or more chassis for towing to the point of use and designed to be used with a foundation as a single family dwelling unit on a year-round basis. A commercial coach, recreational vehicle, or motorhome are not mobile/manufactured homes.

120. **Moorage -** a pier, dock, buoy or float, either fixed or floating, to which vessels may be secured. Individual mooring facilities" refers to moorage for single vessels. See also definition for "*Covered Moorage."*

121. **Mooring Buoy** - a floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels or watercraft.

122. **Multi-family Dwelling** (or multi-family residence) – a building containing two or more dwelling units including but not limited to duplexes, apartments, and condominiums.

123. **Must -** means a mandate; the action is required.

N

124. **Natural Topography** (or "**existing topography**") means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling *(WAC 173-27-030)*.

125. **Navigational Channels -** are those routes on the waters of state beyond the outer harbor line, commonly used by ships for useful commerce.

126. **Navigable Waters -** a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court *(WAC 332-30-106)*.

127. **Non-conforming Structure –** a structure that was lawfully constructed or established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions *(WAC 173-27-080(1))*. See also "Non-conforming Use".

128. **Non-conforming Use** - use or activity that was lawfully established prior to the effective date of the applicable Act or Program provision, and which no longer conforms to the applicable shoreline provisions. *(WAC 173-27-080(1))*

129. **Non-Water-Oriented Use or Activity -** a use or activity that is not water-dependent, water-related, or water-enjoyment.

130. **Normal Maintenance -** includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition *(WAC 173-27-040(2)(b))*. See also "normal repair".

131. **Normal Repair -** to restore a 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 effects to shoreline resource 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 effects to shoreline resources or environment *(WAC 173-27-040(2)(b))*. See also "normal maintenance".

132. **Noxious Weeds -** Non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

O

133. **On-site Replacement** – to replace wetlands or other shoreline environmental resources at the site on which a resource has been impacted by a regulated activity.

134. **Operation(s) -** Industrial, commercial, institutional, or residential activity that may be publicly or privately-owned and operated, and may involve the use of stationary facilities, equipment, transport vehicles, or transfer equipment. To the extent allowed by state or federal law, this definition includes all federal, state, or local government entities.

135. **Ordinary High Water Mark** (OHWM) - that mark found by examining the bed and banks of a body of water and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology: Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water *(RCW 90.58.030(2)(b) and WAC 173-22-030(6))*.

136. **Over-water Structure** - a structure or other construction located waterward of the Ordinary High Water Mark (OHWM) or a structure or other construction erected on piling above the surface of the water, or upon a float.

P

137. **Parking** - the temporary storage of automobiles or other motorized vehicles.

138. **Parking, Accessory** - is the use of land for the purpose of accommodating motor vehicles, motorized equipment, or accessory units, such as trailers, and directly serves an approved shoreline use.

139. **Parking, Principal or primary** - parking that is the principal use on the property and is not accessory to another use.

140. **Party of Record -** includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.

141. **Permit** - any Substantial Development, Variance, Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

142. **Permitted Use** – a use that is allowed under the rules and regulations of the Shoreline Management Program.

143. **Person -** an individual, partnership, corporation, association, organization, cooperative, public or Municipal Corporation, or agency of the state or local governmental unit however designated.

144. **Pier -** a fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water-dependent recreation or moorage for vessels or watercraft and does not include above water storage.

145. **Point** – a low profile shoreline promontory of more or less triangular shape, the top of which extends seaward. A point may be the wavecut shelf remnant of a headland bluff or a purely accretional deposit that began as a hooked spit and becomes a point by subsequently closing the lagoon gap between the headland and the tip of the hook. Points are characterized by converging berms that normally enclose a lagoon, marsh, or meadow, depending on the point's stage of development.

146. **Potentially Harmful Materials –** Hazardous materials as well as other materials such as the following which, if discharged or improperly disposed, may present a risk to water resources:

    1) Petroleum products including but not limited to petroleum fuel and petroleum based coating and preserving materials; 2) oils containing PCB' s; 3) antifreeze and other liquid automotive products; 4) metals, either in particulate or dissolved form, in concentrations above established regulatory standards; 5) flammable or explosive materials; 6) radioactive material; 7) used batteries; 8) corrosives, acids, alkalis, or bases; 9) paints, stains, resins, lacquers or varnishes; 10) degreasers; 11) solvents; 12) construction materials; 13) drain cleaners and other toxic liquid household products; 14) pesticides, herbicides, fungicides or fertilizers unless applied in accordance with local, state and federal standards; 15) steam cleaning and carpet cleaning wastes; 16) car wash water; l7) laundry wastewater; 18) soaps, detergents, ammonia; 19) swimming pool backwash; 20) chlorine, bromine, and other disinfectants; 21) heated water; 22) domestic animal wastes; 23) sewage; 24) recreational vehicle waste; 25) animal carcasses, excluding salmonids; 26) food wastes; 27) collected lawn clippings, leaves or branches; 28) trash or debris; 29) silt, sediment, or gravel; 30) dyes; and 31) untreated or unapproved wastewater from industrial processes.

147. **Priority Habitat -** 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:

    a. Comparatively high fish or wildlife density;

    b. Comparatively high fish or wildlife species diversity;

    c. Important wildlife habitat;

    d. Important fish or wildlife seasonal range;

e. Important fish or wildlife movement corridor;

f. Rearing and foraging habitat;

g. Important marine mammal haul-out;

h. Refugia habitat;

i. Limited availability;

j. High vulnerability to habitat alteration;

k. Unique or dependent species; or

l. Shellfish bed.

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 (such as oak woodlands or eelgrass meadows). 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 a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife *(WAC 173-26-020(24))*.

148. Priority Species - 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. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

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 *(WAC 173-26-020(25))*.

149. Provisions - policies, regulations, standards, guideline criteria or environment designations.

150. Public Access - is the physical ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations *(WAC 173-26-221)*.

151. Public Facility – means any facility for public purposes financed in whole or in part by any port district, county, city, town, or special utility district of the state of Washington, including, but not limited to, sewer or other waste disposal facilities, arterials, bridges, access roads, port facilities, or water distribution and purification facilities *(WAC 133.40.020(2))*.

152. Public Interest - the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development *(WAC 173-27-030(14))*.

Q

153. Qualified Professional - a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4).

R

154. Recreational Development - includes commercial and public facilities designed and used to provide recreational opportunities to the public.

155. Recreational Facility –

a. Active recreational facilities or uses are those which involve indoor or outdoor activities and athletics which often require a moderate to high level of infrastructure development for structures and equipment as well as high levels of maintenance to support recreational pursuits. Facilities and uses generally support a large number of participants or teams for recreational activities. Sports fields, golf courses, skate parks, and motorized boating are examples of active recreational facilities or use.

b. Passive recreational facilities or uses are those that generally require a low or moderate level of infrastructure development, maintenance and support. Recreational activities and/or associated facilities that are compatible with open space and natural resource protection such as wildlife viewing, non-vehicular trails, fishing, canoeing and picnicking.

156. Recreational Vehicle – a vehicle licensed, designed and operated for recreational purposes as temporary living quarters, that has a means of self propulsion or is readily towable by a car or pickup truck, and is not used as a residence in any one location for extended periods of time (i.e., more than three months).

157. Residential Development - includes the development of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division.

158. **Restore, Restoration, Ecological Restoration**– means to reestablish or upgrade impaired ecological 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.

159. **Revetment -** a sloped wall constructed of riprap or other material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes waterward and has rough or jagged facing. The slope differentiates it from a bulkhead that is a vertical structure.

    Rip-Rap - is a foundation or retaining wall of stones or rock placed along the water's edge or on an embankment to prevent erosion.

160. **Right of Way (ROW) -** a type of easement that gives an individual the right to travel across property owned by another; often refers to a thoroughfare for access by the public to travel or a public entity to place utilities or other public facilities.

S

161. **Salmon and steelhead habitats** – gravel bottomed streams, creeks, and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes, and wetland used for rearing feeding and cover and refuge from predators and high water; streams, creeks, rivers, estuaries and shallow areas of saltwater bodies used as migration corridors; and salt water bodies used for rearing, feeding and refuge from predators and currents.

162. **Selective Timber Cutting** – removing individual trees scattered throughout the subject area. The un-harvested trees should be as evenly distributed as possible throughout the shoreline area and should be representative of the species and size classes of the pre-harvest stand.

163. **Setback (Activity, Building, Structure) –** means the distance an activity, building, or structure must be located from the Ordinary High Water Mark, landward or waterward depending on if the use is allowed in the water or on land.

164. **Shall -** a mandate; the action must be done.

165. **Shorelands** or **Shoreland Areas** - those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

166. **Shoreline Administrator** or **Administrator** - is the local government official. or his/her designee, responsible for administering this Program.

167. **Shoreline Designations -** the categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

168. **Shoreline Functions** or **Ecological Functions** - the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments which constitute the shoreline's natural ecosystem *(WAC 173-26-200 (2)(c))*.

169. **Shoreline Jurisdiction -** all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

170. **Shoreline Master Program** or "**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 approved under chapter 90.58 RCW shall be considered an element of the local government's comprehensive plan. All other portions of the shoreline master program for a local government adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the local government's development regulations.

171. **Shoreline Modifications -** those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, dredging or application of chemicals.

172. **Shoreline Restoration Project –** a project designed to restore impaired ecological function of a shoreline.

173. **Shoreline Stabilization –** includes actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and non-structural methods. Structural measures include but are not limited to bulkheads, revetments, and riprap. Non-structural measures include building setbacks, relocation of structures, and bioengineered methods that use vegetation or wood.

174. **Shoreline Substantial Development Permit -** is the permit required by this Program for uses that are substantial developments in shoreline jurisdiction.

175. **Shorelines -** means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

176. **Shorelines Hearing Board** (SHB) – a quasi-judicial body established by the Shoreline Management Act of 1971 to hear appeals by any aggrieved party on the issuance of a substantial development permit, conditional use, variance or, enforcement penalties.

177. **Shorelines of Statewide Significance** –a select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies apply, and described below:

    a. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more, measured at the ordinary high water mark;

    b. Those natural rivers or segments thereof, downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more, and

    c. Those shorelands associated with paragraphs a and b above.

178. **Shorelines of the State –** are the total of all "shorelines" and "shorelines of statewide significance" within the state.

179. **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." (WAC 173-26-020(40)).

180. **Significant vegetation removal -** 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 to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal *(WAC 173-26-020(33))*.

181. **Sign -** A sign is any structure, device, advertisement, advertising device, or visual representation intended to advertise, identify, or communicate information to attract the attention of the public for any reason. Informational signs are non-commercial and intended to communicate safety, directional, navigation, educational, or interpretive information.

182. **Single Family Residence -** a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership that are a normal appurtenance *(WAC 173-27-040(2g).)*

183. **Slash** – the organic debris that is produced by logging operations.

184. **Solid Waste Facility** or "**Transfer Facility**" - refers to any land or structure where solid waste is stored, collected, transported, or processed in any form, whether loose, baled or containerized, including but not limited to the following: transfer stations, landfills, or solid waste loading facilities. Solid waste handling and disposal facilities do not include the following: handling or disposal of solid waste as an incidental part of an otherwise permitted use; and solid waste recycling and reclamation activities not conducted on the same site as and accessory to the handling and disposal of garbage and refuse.

185. **Stormwater -** runoff during and following precipitation and snowmelt event, including surface runoff, drainage, and interflow.

186. **Stream -** a naturally occurring body of periodic or continuously flowing water where the water is contained within a channel *(WAC 173-22-030(8))*. See also "channel."

187. **Structure**- a permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels *(WAC 173-27-030(18))*.

188. **Subdivision** – the division or re-division of land, including short subdivision, for the purpose of sale, lease, or conveyance.

189. **Substantial Development -** "Substantial development" shall mean any development of that the total cost or fair market value exceeds five thousand seven hundred and eighteen dollars ($5,718), or as adjusted by the State Office of Financial Management, or any development that materially interferes with the normal public use of the water or shorelines of the state, except as specifically exempted pursuant to RCW 90.58.030(3e) and WAC 173-27-040. See also definition of "development" and "exemption".

190. **Substantially Degrade -** to cause significant ecological impact *(WAC 173-26-020(35))*.

191. **Subtidal** – any substratum that is constantly submerged.

192. **Surface Water -** water that flows across the land surface, in channels, or is contained in depressions in the land surface, including but not limited to ponds, lakes, rivers, and streams.

T

193. **Terrestrial** – of or relating to land as distinct from air and water.

194. **Transmit -** to send from one person or place to another by mail or hand delivery. The date of transmittal for mailed items is the date that the document is certified for mailing or, for hand-delivered items, is the date of receipt at the destination *(WAC 173-27-030(16))*.

195. **Transportation Facility -** includes roads, railways, bridges and related structures such as culverts, fills, embankments, causeways, for the purpose of moving people using motorized or non-motorized means of transport.

U

196. **Upland** – generally described as the dry land area above and landward of the OHWM.

197. **Utilities -** services and facilities that produce, convey, store, or process power, water, wastewater, stormwater, gas, communications, oil, and the like. On-site utility features serving a primary use, such as a water, sewer, or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

V

198. Variance - is a means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline. See RCW 90.58.160. *(WAC 173-27-030(17))*.

199. Vegetation Conservation - includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species *(WAC 173-26-221).*

200. Vessel - includes ships, boats, barges, or any other floating watercraft that are designed and used for navigation and do not interfere with the normal public use of the water.

201. View Corridor - portion of a viewshed, often between structures or along thoroughfares. View corridors may or may not be specifically identified and reserved through development regulations for the purpose of retaining the ability of the public to see a particular object (such as a mountain or body of water) or a landscape within a context that fosters appreciation of its aesthetic value.

W

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

203. Water-enjoyment use- a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and that 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.

204. Water-oriented use - a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

205. Water Quality - the characteristics of water within shoreline jurisdiction, including water quantity, hydrological, chemical, aesthetic, recreation-related, and biological characteristics.

206. Water Quantity - where used in this program, the term refers only to development and uses regulated 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 (WAC 173-26-020(42)).

207. Water-related Use or Activity – a use or portion of use that is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

a. of 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 make its services less expensive and/or more convenient.

208. Watershed Restoration Plan - a plan, developed or sponsored by WDFW, Ecology, DNR, the Washington Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, a special purpose agency such as the Lower Columbia Fish Recovery Board, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

209. Watershed Restoration Project - a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of a the plan and consists of one or more of the following activities (RCW 89.08.460):

a. A project that involves less than ten miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

c. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or in-stream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.

"Watershed restoration plan" means a plan, developed or sponsored by WDFW, Ecology, State DNR, WSDOT, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, a conservation district, or a special purpose agency that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

210. Weir - a structure in a stream or river for measuring or regulating stream flow.

211. Wetlands - areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and which 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 non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Y

212. Yard, Front - a yard extending the full width of the lot, the depth of which is the minimum distance from the front lot line to the main building.

213. Yard, Rear - a yard extending the full width of the lot, the depth of which is the minimum distance from the rear lot line to the main building.

214. Yard, Side/View Corridor - a yard extending from the front yard to the rear yard along the side of the main building, the width of which yard is the minimum distance from the side lot line to the main building.

APPENDIX A

CITY OF BATTLE GROUND

SHORELINE DESIGNATION MAPS

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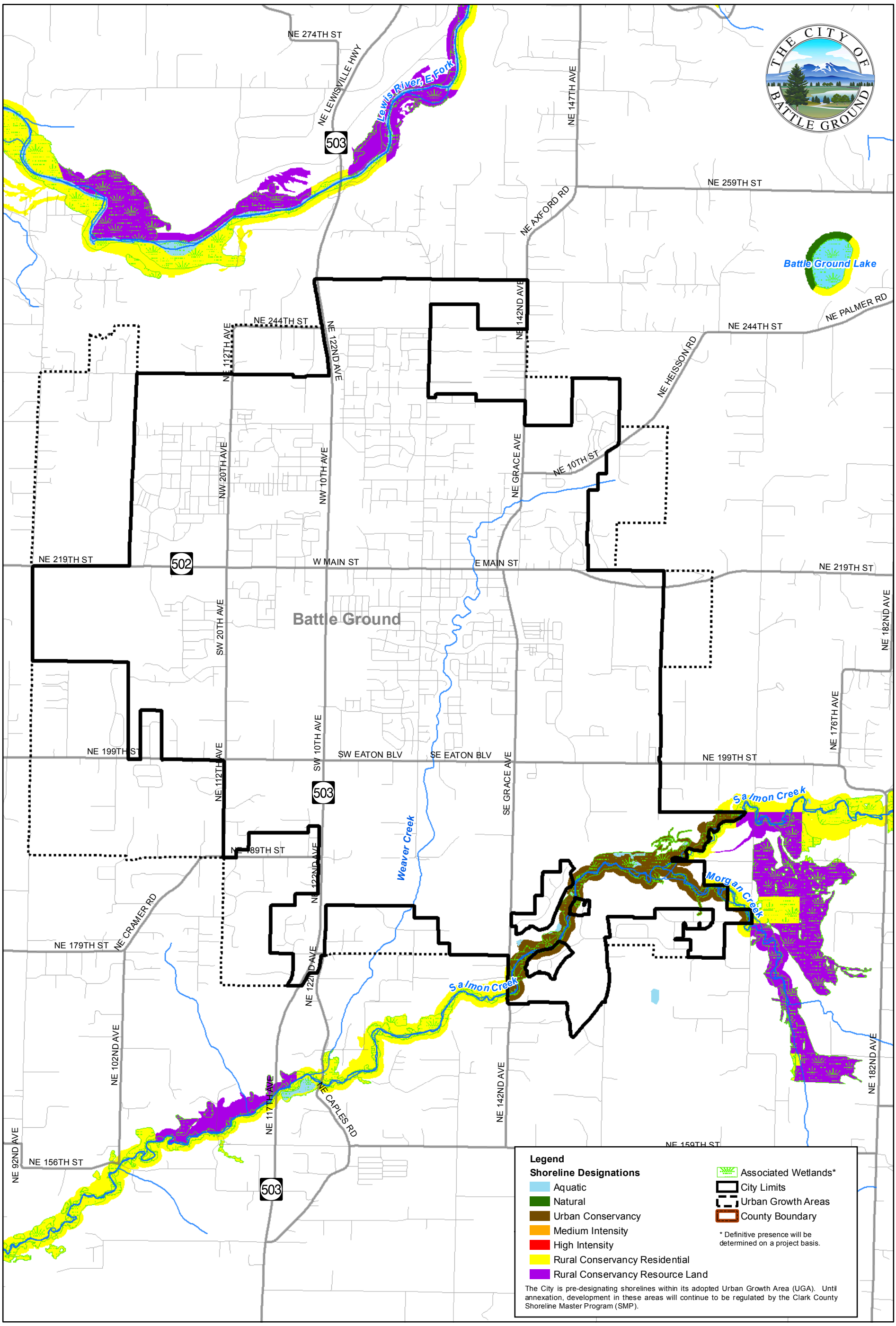


ESA Adolfson

SMA Grant Agreement No. G1000058

Coordinate System: State Plane NAD1983 (ft)
Washington South FIPS 4602

NOTE: Map data shown here are the property of the sources listed below. Inaccuracies may exist, and ESA Adolfson implies no warranties or guarantees regarding any aspect of data depiction.

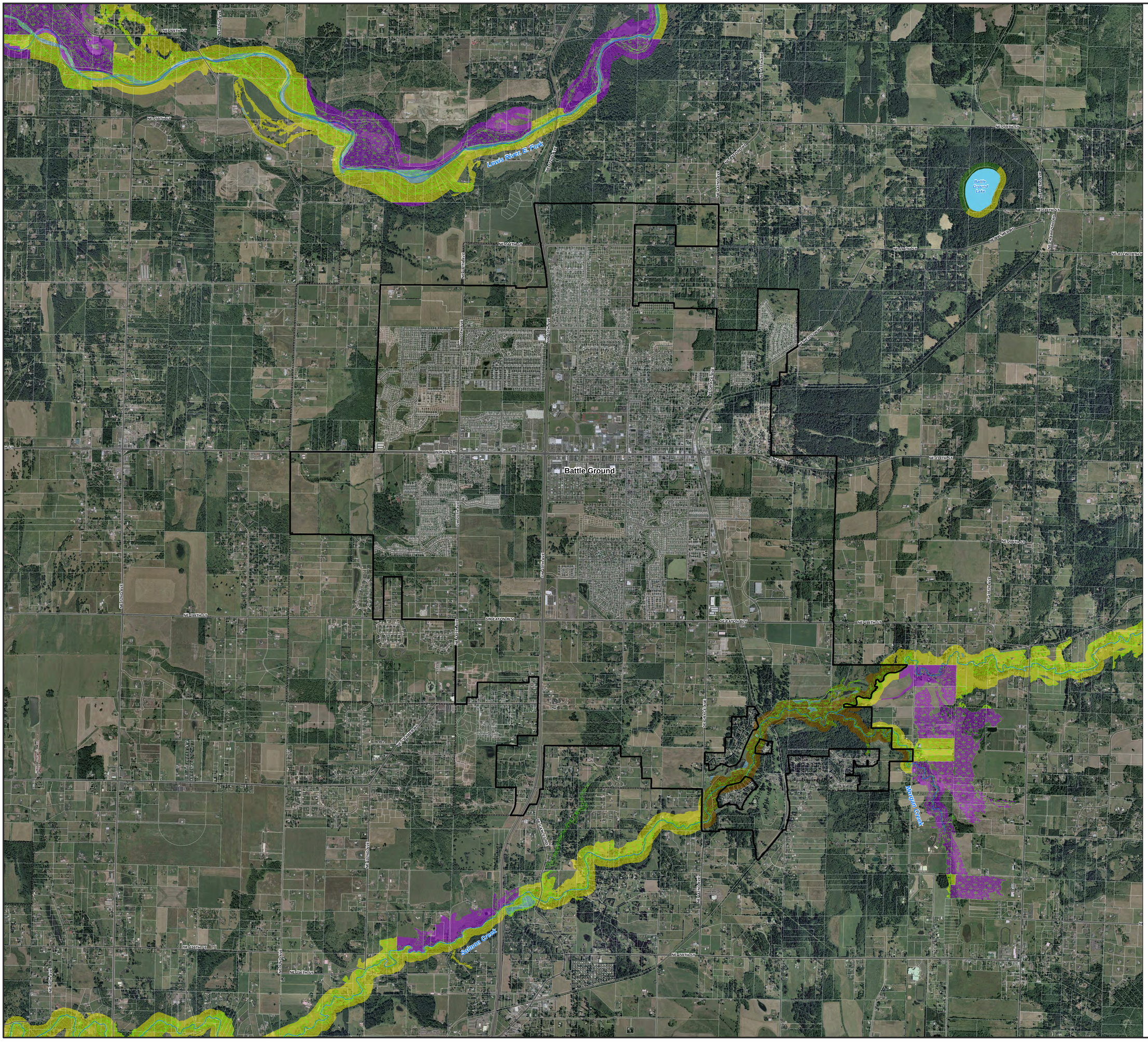
N

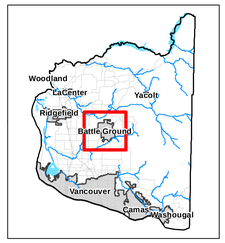
0 0.25 0.5
Miles

City of Battle Ground
Unofficial Shoreline Designation Map

Data Sources: Clark County, 2009, 2011; DNR, 2007

S:\GIS\Projects\209xxx\209275_ClarkCountySMP\Mxds\SD\Revised SD\Jul 2012\Jul 2012 11x17\Battleground SD 11x17.mxd (ATR; 7/7/2012)





Legend

- City Limits
- Urban Growth Areas
- Associated Wetlands*

Shoreline Designations

- Aquatic
- Natural
- Urban Conservancy
- Medium Intensity
- High Intensity
- Rural Conservancy Residential
- Rural Conservancy Resource Land
- USFWS National Wildlife Refuges**

* Definitive presence will be determined on a project basis.

** Private development in National Wildlife Refuges are regulated under the Rural Conservancy Residential provisions of this SMP.

The City is pre-designating shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas will continue to be regulated by the Clark County Shoreline Master Program (SMP).

N

0 0.125 0.25 0.5
Miles

Coordinate System: State Plane NAD 1983 (ft)
Washington South FIPS 4602

NOTE: Map data shown here are the property of the sources listed below. Inaccuracies may exist, and ESA implies no warranties or guarantees regarding any aspect of data depiction.

Data Sources: ESA, 2010; Clark County, 2009, 2011; DNR, 2009

ESA Adolfson

Official Shoreline Designation Map

City of Battle Ground, Washington

APPENDIX B

CITY OF BATTLE GROUND

CRITICAL AREAS ORDINANCE

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Chapter 18.260
GENERAL PROVISIONS

Sections:

18.260.010 Purpose.
18.260.020 Authority.
18.260.030 Relationships to other regulations.
18.260.040 Administrative procedures.
18.260.050 Critical areas.
18.260.060 Applicability.
18.260.070 Exemptions.
18.260.080 Exception—Reasonable use.
18.260.090 Allowed activities.
18.260.100 Critical area report—Requirements.
18.260.110 Best available science.
18.260.115 General approval criteria.
18.260.120 Mitigation.
18.260.130 Mitigation plan requirements.
18.260.140 Determination.
18.260.150 Unauthorized critical area alterations and enforcement.
18.260.160 Notice on title.
18.260.170 Native growth protection areas.
18.260.180 Critical area tracts.
18.260.190 Bonds to ensure mitigation, maintenance and monitoring.
18.260.200 Critical area inspections.
18.260.210 Definitions.

18.260.010 Purpose.

The purpose of this title is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values while also allowing for reasonable use of private property. This title is to implement the goals, policies, guidelines, and requirements of the city of Battle Ground comprehensive plan and the Growth Management Act. (Ord. 04-025 § 3 (part), 2004)

18.260.020 Authority.

As provided herein, the director is given the authority to interpret and apply, and the responsibility to enforce, this title to accomplish the stated purpose. The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this title. (Ord. 04-025 § 3 (part), 2004)

18.260.030 Relationships to other regulations.
When any provision of this title or any existing regulation, easement, covenant, or deed restriction conflicts with this title, that which provides more protection to the critical areas shall apply. (Ord. 04-025 § 3 (part), 2004)

18.260.040 Administrative procedures.
The director, to the extent practical, shall review development for compliance with critical area regulations (with the triggering development application). Where there are no triggering applications, determination of the type of application shall be based upon the criteria in BGMC 17.200.035. Determinations of compliance with this title shall be appealable along with the decision on the underlying permit application through BGMC 17.200.140. (Ord. 04-025 § 3 (part), 2004)

18.260.050 Critical areas.
The following critical areas are regulated by this title:

A. Wetlands as designated in Chapter 18.270 BGMC, Wetlands;

B. Fish and wildlife habitat conservation areas as designated in Chapter 18.280 BGMC, Fish and Wildlife Habitat Conservation Areas;

C. Critical aquifer recharge areas as designated in Chapter 18.290 BGMC, Critical Aquifer Recharge Areas;

D. Geologically hazardous areas as designated in Chapter 18.300 BGMC, Geologically Hazardous Areas; and

E. Frequently flooded areas as designated in Chapter 18.310 BGMC, Frequently Flooded Areas. (Ord. 04-025 § 3 (part), 2004)

18.260.060 Applicability.
The provisions of this title shall apply to all lands designated as critical areas within the city and to all development activities thereon unless specifically exempted by this title.

A. Critical areas shall be those areas that meet the definition of a critical area as defined in BGMC 18.260.050 regardless of whether they are mapped as such. The city shall maintain maps and other information to indicate the likely presence of critical areas.

B. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, if it does not comply with the requirements of this title, including, but not limited to, the following:

1. Building permit;

2. Clearing and grading permit;

3. Forest practices application;

4. Conditional use permit;

5. Short subdivision;

6. Subdivision;

7. Planned unit development;

8. Binding site plan;

9. Variance; or

10. Any other adopted permit or required approval not expressly exempted by this title.

C. The following table establishes the level of review required for uses or activities under this chapter.

1. Activities or uses that are exempt require no review and do not need to meet the standards of this chapter.

2. Activities and uses that are categorized as review required must comply with the standards of this chapter but no special report is needed. Determination of compliance with this chapter will be determined through the review process required for the underlying development permit application.

3. For activities where a critical area report is required, the applicant must submit a report with the underlying development application and submit additional application fees consistent with the adopted fee schedule:

Table 18.260-1

USE / ACTIVITY	Development located in any of the following critical areas may be Exempt (E), Require Review (RR), or are subject to a Critical Area Report (CAR) as defined in BGMC 18.260.100:				
	WETLAND	**FISH AND WILDLIFE HABITAT**	**CRITICAL AQUIFER RECHARGE**	**GEOLOGICALLY HAZARDOUS AREA**	**FREQUENTLY FLOODED AREA**
RESIDENTIAL ACTIVITIES					
Single-family permit located in a critical area or buffer	RR	RR	E	RR	RR
Single-family permit located outside critical area or buffer	E	E	E	E	E
Single-family permit on lots platted prior to 2004 [1]	E	E	E	E	RR
Approved multifamily site plan prior to 2004	E	E	E	E	RR
Multifamily site plan within critical area or buffer	CAR	CAR	E	CAR	RR
Multifamily site plan outside critical area or buffer	E	E	E	E	E
Interior or exterior alteration or repair that does not change the footprint of the building or does not increase the footprint within a critical area or buffer	E	E	E	E	E
COMMERCIAL & INDUSTRIAL ACTIVITIES					
New construction on	CAR	CAR	CAR	CAR	RR

vacant land in critical area or buffer					
New construction previously approved prior to adoption of this chapter	E	E	E	E	RR
New construction on vacant land outside critical areas or buffer	E	E	E	E	E
Expansion, alteration or addition to existing construction within a critical area or buffer	CAR	CAR	CAR	CAR	RR
Expansion, alteration or addition to existing construction outside of critical area or buffer	E	E	E	E	E
OTHER ACTIVITIES					
Clearing and grading activities within a critical area or buffer	CAR	CAR	CAR	CAR	RR
Forest practices except conversions	E	E	E	E	E
Emergencies [1]	E	E	E	E	E
Repair of existing: structures, infrastructure improvements, utilities, public or private roads or drainage systems	E	E	E	E	RR
Activities within an existing improved right-of-way	E	E	E	E	RR
Chemical applications subject to applicable local, state or federal handling and application requirements	E	E	E	E	E

Minor site investigative work	E	E	E	E	E
Construction or replacement of boundary markers	E	E	E	E	E
The removal of invasive weeds and blackberries with hand labor and light equipment	E	E	E	E	E
Public and private pedestrian trails	RR	RR	E	RR	E
Select vegetation removal of hazard trees and measures to control fire or halt spread of disease	RR	RR	E	RR	E
Filing, grading, clearing or other activities in artificial wetlands, isolated Category IV wetlands of less than 10,000 sq. ft. or isolated Category II and III wetlands of less than 2,500 sq. ft.	E	N/A	N/A	N/A	N/A
Construction of fences in a critical area or buffer	RR	RR	E	E	E
Vegetation removal and maintenance activities inside existing yards	E	E	E	E	E

1 Only those lots that were reviewed and approved through a city land division process shall be allowed the exemption.

(Ord. 04-025 § 3 (part), 2004)

18.260.070 Exemptions.

A. Exempt Activities in All Critical Areas. The following developments, activities, and associated uses shall be exempt from the provisions of this title; provided, that they are otherwise consistent with the

provisions of other local, state, and federal laws and requirements and an exemption request has been reviewed consistent with subsection B of this section:

1. Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this title. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Following the emergency appropriate mitigation shall be implemented and permanent activities, installations or impacts are subject to review and compliance with the applicable standards.

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

3. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222, and those that are exempt from Battle Ground's jurisdiction; provided, that forest practice conversions are not exempt.

4. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or results in the transport of sediment or increased stormwater.

5. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary; provided, that their use shall be restricted in accordance with Department of Fish and Wildlife Management Recommendations, and the regulations of the Department of Agriculture and the U.S. Environmental Protection Agency. [1]

6. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored.

7. Boundary Markers. Construction or modification of boundary markers.

8. Construction and modifications to existing structures that do not increase the footprint of the structure.

9. The removal of the following vegetation with hand labor and light equipment:

a. Invasive nonnative weeds;

b. Himalayan blackberry (Rubus discolor, R. procerus); and

c. Evergreen blackberry (Rubus laciniatus).

B. Exemption Request and Review Process. The proponent of the activity shall submit a completed exemption request form for exemption to the director that describes the activity and states the exemption listed in this section that applies. The director shall review the exemption request to verify that it complies with this title and approve or deny the exemption. If the exemption is approved, it shall be placed on file with the department and the requesting party notified. If the exemption is denied, the proponent may continue in the review process and shall be subject to the requirements of this title. Determinations shall be considered a Type I process pursuant to Chapter 17.200 BGMC and subject to appeal.

C. Exempt Activities Shall Avoid Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this title does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense. (Ord. 04-025 § 3 (part), 2004)

18.260.080 Exception—Reasonable use.

Exceptions to the standards provisions of this title may be made whereby the imposition of the standards would deny all reasonable use of the property.

A. Reasonable Use Review Criteria. The criteria for review and approval of reasonable use exceptions are:

1. The application of this title would deny all reasonable use of the property;

2. No other reasonable use of the property has less impact on the critical area;

3. Any alteration is the minimum necessary to allow for reasonable use of the property; and

4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this title, or its predecessor.

B. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

C. Nothing in this title shall be used to prevent the establishment of a single-family house on a legal lot of record created prior to the establishment of this title. (Ord. 04-025 § 3 (part), 2004)

18.260.090 Allowed activities.

A. Allowed Activities. The following activities are allowed within a critical area and/or required buffer subject to review and approval through an underlying land use permit or critical area review:

1. Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement.

2. Public and Private Pedestrian Trails. Public and private pedestrian trails, subject to the following:

a. The trail surface shall meet all other requirements including water quality standards set forth in the city of Battle Ground Municipal Code;

b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and

c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

3. Select Vegetation Removal Activities. The following vegetation removal activities shall be allowed:

a The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property from critical areas and buffers; provided, that:

i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

ii. Tree cutting shall be limited to limbing and crown thinning, unless otherwise justified by a qualified professional. Where limbing or crown thinning is not sufficient to address the hazard, trees should be topped to remove the hazard rather than cut at or near the base of the tree;

iii. All vegetation cut (tree stems, branches, tops, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease transmittal to other healthy vegetation;

iv. The landowner shall replace any trees that are felled or topped with new trees at a ratio of two replacement trees for each tree felled or topped within one year in accordance with an approved restoration plan. Tree species that are native and indigenous to the site and a minimum caliper of two inches shall be used;

v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods or removal that will minimize impacts; and

vi. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be removed or topped by the landowner prior to receiving written approval from the city; provided, that within fourteen days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this title.

b. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

c. Unless otherwise provided or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

4. Other activities specifically allowed in the individual critical area sections.

B. Critical Area Report Not Required. Activities allowed under this section shall have been reviewed and permitted or approved by the city of Battle Ground or other agency with jurisdiction, but do not require submittal of a separate critical area identification form or critical area report, unless such submittal was required previously for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this title to protect critical areas.

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

D. Additional uses may be permitted within critical areas subject to the submittal of a critical area report and determination. (Ord. 04-025 § 3 (part), 2004)

18.260.100 Critical area report—Requirements.

A critical area report is required where specifically indicated and when an activity is proposed within a critical area or buffer that is not specifically exempt or permitted with review. Where a critical area report is required it shall be consistent with the following standards.

A. The report must be completed by a qualified professional.

B. The critical area report shall use scientifically valid and professionally recognized and accepted methods and studies in the analysis of critical area data and field reconnaissance and reference the

source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this title.

C. Minimum Report Contents. At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, and the name and address of the qualified professional who prepared the report, a description of the proposal, and identification of the permit requested;

2. A copy of the site plan for the development proposal showing:

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

b. Limits of any areas to be cleared;

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

d. General location and types of vegetation;

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

4. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

5. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

6. A description of reasonable efforts made to apply mitigation sequencing pursuant to BGMC 18.260.120, Mitigation, to avoid, minimize, and mitigate impacts to critical areas;

7. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with BGMC 18.260.130, Mitigation plan requirements, including, but not limited to:

a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and

b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;

8. A discussion of the performance standards applicable to the critical area and proposed activity;

9. Financial guarantees to ensure compliance;

10. Any additional information required for the critical area as specified in the corresponding chapter;

11. A description of efforts made to comply with the approval criteria in BGMC 18.260.115.

D. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared, by a qualified professional, for and applicable to the development proposal site, as approved by the director.

E. The director may waive specific requirements of the critical area reports where less information is required to adequately address the impacts to the critical area or where existing information is on file with the city that addresses the impacts.

F. The director may require additional information that is necessary to determine compliance with the standards of this title.

G. A qualified professional shall be a person who has the education, training and/or certification that meets the specific requirements specified in the individual critical area chapters. (Ord. 06-16 § 1, 2006; Ord. 04-025 § 3 (part), 2004)

18.260.110 Best available science.

Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish and their habitat. Best available science is that scientific information applicable to the critical area prepared by local, state or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925. (Ord. 04-025 § 3 (part), 2004)

18.260.115 General approval criteria.

Any activity subject to this chapter, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and their buffers and to conform to the standards required by this chapter. Activities shall protect the functions of the critical areas and buffers on the site.

A. Avoid Impacts. The applicant shall first seek to avoid all impacts that degrade the functions and values of (a) the critical area(s). This may necessitate a redesign of the proposal.

B. Minimize Impacts. Where avoidance is not feasible, the applicant shall minimize the impact of the activity and mitigate to the extent necessary to achieve the activity's purpose and the purpose of this chapter. The applicant shall seek to minimize the fragmentation of the resource to the greatest extent possible.

C. Compensatory Mitigation. The applicant shall compensate for the unavoidable impacts by replacing each of the affected functions to the extent feasible. The compensatory mitigation shall be designed to

achieve the functions as soon as practicable. Compensatory mitigation shall be in-kind and on-site, when feasible, and sufficient to maintain the functions of the critical area, and to prevent risk from a hazard posed by a critical area to a development or by a development to a critical area.

D. No Net Loss. The proposal protects the critical area functions and values and results in no net loss of critical area functions and values.

E. Consistency with General Purposes. The proposal is consistent with the general purposes of this chapter and does not pose a significant threat to the public health, safety, or welfare on or off the development proposal site.

F. Performance Standards. The proposal meets the specific performance standards of Chapter 18.280 BGMC, Fish and Wildlife Habitat Conservation Areas; Chapter 18.310 BGMC, Frequently Flooded Areas; Chapter 18.300 BGMC, Geologically Hazardous Areas; and Chapter 18.270 BGMC, Wetlands, as applicable. (Ord. 06-16 § 2, 2006)

18.260.120 Mitigation.

Applicants shall demonstrate that all reasonable efforts have been examined to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, the alteration shall be minimized, or compensated for, in the following order of preference:

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, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

E. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

F. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

G. Monitoring the hazard or other required mitigation and taking remedial action when necessary.

H. Mitigation by replacement or enhancement shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. (Ord. 04-025 § 3 (part), 2004)

18.260.130 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city of Battle Ground a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the mitigation proposed including:

1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria, identification of mitigation goals, identification of resource functions, and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be formulated to meet the standards of BGMC 18.260.115 regarding the impacted critical areas;

2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

3. An analysis of the likelihood of success of the mitigation project.

B. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this title have been met.

C. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

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

2. Grading and excavation details;

3. Erosion and sediment control features;

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

5. Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

D. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, five and seven after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

E. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the mitigation project, monitoring program, and any contingency measures shall be posted in accordance with bonds to ensure mitigation, maintenance, and monitoring, BGMC 18.260.190. (Ord. 06-16 § 3, 2006; Ord. 04-025 § 3 (part), 2004)

18.260.140 Determination.

The director shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this title. The director's determination shall be based on the following criteria:

A. Any alteration to a critical area, unless otherwise provided for in this title, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

1. The proposal minimizes the impact on critical areas in accordance with BGMC 18.260.120 and meets the standards of BGMC 18.260.115;

2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

3. The proposal is consistent with the general purposes of this title and the public interest;

4. Any alterations permitted to the critical area are mitigated in accordance with BGMC 18.260.120, Mitigation;

5. The proposal protects the critical area functions and values consistent with the best available science;

6. The proposal is consistent with the specific standards of the applicable critical area(s) and other applicable regulations and standards;

7. Mitigation shall not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

B. The director may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this title.

C. Except as provided for by this title, any project that cannot adequately mitigate its impacts to critical areas shall be denied.

D. Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. (Ord. 06-16 § 4, 2006; Ord. 04-025 § 3 (part), 2004)

18.260.150 Unauthorized critical area alterations and enforcement.
Unauthorized critical area alteration shall be subject to enforcement consistent with the procedures in Chapter 20.102 BGMC. The following additional standards apply:

A. Restoration Plan Required. All unauthorized development work within a critical area or buffer shall remain stopped until a restoration plan is prepared and approved by the director or a permit is issued to allow the alteration. A restoration plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the minimum requirements described in subsection B of this section. The director shall, at the violator's expense, seek expert advice in determining the adequacy of the plan.

B. Minimum Performance Standards for Restoration.

1. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards, as applicable, shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

a. The historic structural and functional values shall be restored, including water quality and habitat functions;

b. The historic soil types and configuration shall be replicated;

c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities; and

d. The historic functions and values should be replicated at the location of the alteration.

2. For alterations to frequently flooded and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard. (Ord. 04-025 § 3 (part), 2004)

18.260.160 Notice on title.

A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county auditor. The notice shall state the presence of the critical area or buffer on the property, of the application of this title to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall be recorded and run with the land.

B. This notice on title shall not be required for a development proposal by a public agency or public or private utility:

1. Within a recorded easement or right-of-way;

2. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or

3. On the site of a permanent public facility.

C. The applicant shall submit proof that the notice has been filed for public record before the city approves any development proposal for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording. (Ord. 04-025 § 3 (part), 2004)

18.260.170 Native growth protection areas.

A. Unless otherwise required in this title, native growth protection areas (NGPA) shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below:

1. Landslide hazard areas and buffers;

2. Wetlands and buffers;

3. Habitat conservation areas; and

4. All other lands to be protected from alterations as conditioned by project approval.

B. Native growth protection areas shall be recorded on all documents of title of record for all affected lots.

C. Native growth protection areas shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restrictions:

1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

2. The right of the city to enforce the terms of the restriction. (Ord. 04-025 § 3 (part), 2004)

18.260.180 Critical area tracts.

A. Critical area tracts shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below that total five thousand or more square feet:

1. All wetlands and buffers;

2. All habitat conservation areas; and

3. All other lands to be protected from alterations as conditioned by project approval.

B. Critical area tracts shall be recorded on all documents of title of record for all affected lots.

C. Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restriction:

1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and

2. The right of the city to enforce the terms of the restriction.

D. The city may, at its sole discretion, require that any required critical area tract be dedicated to the city, or held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust), which assures the ownership, maintenance, and protection of the tract. (Ord. 04-025 § 3 (part), 2004)

18.260.190 Bonds to ensure mitigation, maintenance and monitoring.

A. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. 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 city to ensure mitigation is fully functional.

B. The bond shall be in the amount of one hundred and twenty-five 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 five-year period.

C. 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 city attorney or other method acceptable to the director.

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

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

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within thirty days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation, maintenance or monitoring. (Ord. 04-025 § 3 (part), 2004)

18.260.200 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. (Ord. 04-025 § 3 (part), 2004)

18.260.210 Definitions.

1. “Adjacent” means an area within one hundred feet of a critical area.

2. “Altered,” when referring to wetlands, means a wetland which has been graded, drained, devegetated, or replanted with nonwetland plants.

3. “Anadromous” means fish that migrate up rivers and streams from the ocean to breed in fresh water.

4. “Appeal” means a request for a review of the interpretation of any provision of this title or a request for a variance.

5. “Aquifer” means a groundwater-bearing geologic formation or formations that contain enough saturated permeable material to yield significant quantities of water to wells or springs.

6. “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. Designations on the Flood Insurance Rate Maps include the letter A.

7. “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

8. “Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.

9. “Best management practices” or “BMPs” means those physical, structural, and managerial practices and prohibitions of practices that, when used singly or in combination, prevent pollution to groundwater and surface water, and the protection of wetlands and fish and wildlife habitat.

10. “Buffer” means an area surrounding and protecting a critical area from adverse impacts to the functions of that critical area.

11. “Class V injection well” or “Class V storm water injection well” means a drywell used for collection of storm water. A Class I injection well is a well used to inject industrial, commercial, or municipal waste fluids. A Class II injection well is a well used in natural gas and oil exploration or production. A Class III injection well is a well used for extraction of minerals. A Class IV injection well is a well used for injection of dangerous waste or radioactive waste fluids. Class V injection wells are commonly known as drywells.

12. “Clearing” means the act of removing or destroying trees, brush, ground cover or other vegetation, snags or downed logs, or talus features by manual, mechanical, chemical or any other means.

13. “Clearing permit” means a permit required for nonexempt clearing of vegetation when no other land use permit specifically authorizes the proposed clearing activity.

14. “Conservation covenant” means a signed and recorded agreement between a property owner and Battle Ground running with the land and stipulating that certain areas of the property be maintained in a natural state without disturbance to vegetation or other features unless otherwise approved by the county.

15. “Critical aquifer recharge areas” or “CARAs” means:

a. Category I is the highest priority critical aquifer recharge area. Category I is the one-year time of travel for public municipal water wells.

b. Category II is the primary critical aquifer recharge area. Category II is the five-to-ten-year time of travel for public municipal water wells.

16. “Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, or installations which produce, use or store hazardous materials or hazardous waste.

17. “Dangerous waste” means solid waste designated in WAC 173-303-070 through 173-303-130 as dangerous or extremely hazardous waste. The words “dangerous waste” will refer to the full universe of wastes regulated by Chapter 173-303 WAC (including dangerous and extremely hazardous waste).

18. “Demolition waste” means largely inert waste resulting from the demolition or razing of buildings, roads, and other manmade structures. Demolition waste consists of, but is not limited to, concrete, brick, bituminous concrete, wood, masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper. Plaster (sheet rock or plaster board) or any other material, other than wood, that is likely to produce gases or a leachate during the decomposition process and asbestos wastes are not considered to be demolition waste to this regulation.

19. “Department” means the Battle Ground planning department.

20. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, clearing, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

21. “Director” means the director of the city of Battle Ground planning department or that person’s designee.

22. “Emergent wetland” means a wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

23. “Enhancement” means actions performed to improve the condition of an existing degraded wetland or buffer so that the functions provided are of a higher quality.

24. “Exotic” means any species of plants or animals that are not native to the watershed.

25. “Extremely hazardous waste” means dangerous wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous.

26. “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland or tidal waters; and/or

b. The unusual and rapid accumulation of runoff or surface waters from any source.

27. “Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

28. “Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles and the water surface elevation of the base flood.

29. “Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

30. “Forested wetland” means a wetland with at least thirty percent of the surface area covered by a canopy of woody obligate, facultative wet or facultative plants greater than twenty feet in height.

31. “Functions” means the beneficial roles served by wetlands and fish and wildlife habitat areas including the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife.

32. “Geologic hazard areas” means areas having steep slopes; potential, active or previous landslides; or extreme seismic hazard that are defined and regulated by this section.

33. “Geologist” means a person who, by reason of his or her knowledge of geology, mathematics, the environment, and the supporting physical and life sciences, acquired by education and practical experience, has met the qualifications established under this chapter, and has been issued a certificate of licensing as a geologist by Washington State.

34. “Geotechnical engineer” means a professional engineer licensed in the state of Washington with expertise in geotechnical engineering.

35. “Groundwater” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

36. “Habitat areas” shall include the priority habitats and species (PHS) sites, and locally important habitat (LIH) sites as defined by this section and referenced on Battle Ground maps.

37. “Hazardous materials” or “hazardous substances” means such material as flammable solids; corrosive liquids; radioactive material; oxidizing material; highly toxic material; poisonous gases; reactive material; unstable material; hyperbolic material; porphyritic material as defined in Article 2 of the Uniform Fire Code; and substances, or mixture of substances, that are an irritant or strong sensitizer or which generate pressure through exposure to heat, decomposition, or other means. “Hazardous substances” shall also mean hazardous waste as designated in Chapter 173-303 WAC as dangerous or extremely hazardous waste. “Hazardous substances” also means any dangerous waste or extremely hazardous

waste as defined in RCW 70.105.010(5) and (6), or any dangerous or extremely dangerous waste as designated by rule under Chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under Chapter 70.105 RCW; and any substance that, on the effective date of this section, is a hazardous substance under Section 101(14) of the Federal Cleanup Law, 42 USC, Section 9601(14); petroleum products; and any substance or category of substances, including solid waste decomposition products, determined by the WDOE's director to present a threat to human health or the environment if released into the environment. The term "hazardous substances" does not include any of the following when contained in an underground storage tank from which there is not a release of: crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local laws.

38. Reserved.

39. "High-impact use" means an activity that is regulated due to the probability and/or magnitude of its effects on the environment. For purposes of this chapter, these uses possess certain characteristics posing a substantial potential threat or risk to the quality of groundwater and surface waters within Category I CARAs. High-impact uses shall include, but are not limited to, the following:

a. Landfills;

b. Class V injection wells;

c. Agricultural drainage wells;

d. Untreated sewage waste disposal wells;

e. Cesspools;

f. Industrial process water and disposal wells;

g. Radioactive waste disposal;

h. Radioactive disposal sites; and

i. Activities in BGMC 18.290.080 that are not connected to public sewer.

40. "High intensity land use" means roadways, commercial, industrial, and multifamily (more than four units per parcel) land uses.

41. "Hydric soil" means a soil that formed under saturated, flooded or ponded conditions long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Wetlands Delineation Manual.

42. “Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the Wetlands Delineation Manual.

43. “Intermittent stream” means surface streams with no measurable flow during thirty consecutive days in a normal water year.

44. “Isolated wetlands” means those wetlands which:

a. Are outside of and not contiguous to any one-hundred-year floodplain of a lake, river (other than the Columbia River), or stream; and

b. Have no contiguous hydric soil or hydrophytic vegetation or regularly occurring (at least once every five years) surface water connection between the wetland and any lake, river, or stream.

45. “Landfill” means a disposal facility or part of a facility at which solid and demolition waste is permanently placed in or on the land that is not a land-spreading disposal facility. In addition, “landfill” means all continuous land and structures and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.

46. “Landslide” means down-slope movement of a mass of soil or rock, including, but not limited to, rock falls, slumps, mud flows, debris flows, torrents, and earth flows.

47. “Landslide hazard areas” means areas that, due to a combination of slope inclination, soil type and presence of water, are susceptible to land sliding in accordance with the following criteria:

a. Areas of previous slope failures including areas of unstable old or recent landslides;

b. Areas with all three of the following characteristics:

i. Slopes steeper than fifteen percent;

ii. Hillsides intersecting geologic contacts with permeable sediment overlying a low permeability sediment or bedrock; and

iii. Any springs or groundwater seepage;

c. Slopes that are parallel or subparallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials;

d. Areas mapped by:

i. Washington Department of Natural Resources Open File Report: Slope Stability of Clark County as having potential instability, historical or active landslides, or as older landslide debris, and

ii. The Washington Department of Natural Resources Open File Report: Geologic Map of the Vancouver Quadrangle, Washington and Oregon as landslides;

e. Slopes greater than eighty percent, subject to rock fall during earthquake shaking;

f. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and stream undercutting the toe of a slope;

g. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows, debris torrents or catastrophic flooding;

h. Areas adjacent to open-pit mine sites subject to steep slope hazard or landslide hazard.

48. “Landslide protection areas” means those areas which are to be left permanently undisturbed in a substantially natural state and in which no clearing, grading, filling, building construction or placement or road construction of any kind is allowed except for activities exempted in BGMC 18.300.020.

49. “Large quantity generators” means those businesses that generate more than two thousand two hundred pounds of dangerous waste per month. They accumulate more than two thousand two hundred pounds of dangerous waste at any time. They generate and accumulate more than two and two-tenths pounds of acutely hazardous waste or toxic extremely hazardous waste.

50. “Locally important habitat” means those areas so designated by Battle Ground by virtue of containing unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators.

51. “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

52. “Low intensity land use” means land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to: passive recreation, open space, or forest management lands.

53. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

54. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

55. “Medium quantity generators” means those businesses that generate more than two hundred twenty pounds, but less than two thousand two hundred pounds, of dangerous waste per month. They are limited to the accumulation of less than two thousand two hundred pounds of dangerous waste at any time. They are limited to the generation of, and accumulation of, less than two and two-tenths pounds of acutely hazardous waste or toxic extremely hazardous waste.

56. “Minimally necessary” shall mean the amount or extent needed to carry out a particular task, and no more.

57. “Minimizing impacts to wetlands or buffers” means:

a. Using appropriate and best management practices to stop sedimentation, runoff and other impacts to the wetland;

b. Taking affirmative steps to avoid or reduce impacts;

c. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

d. Providing protective measures such as physical barriers or scheduling the activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities;

e. Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington; and

f. Limiting the activity to certain times of the year.

58. “Mitigation” means to make an impact less severe by either modifying the activity or replacing what is lost.

59. “Moderate intensity land use” means land uses which are associated with moderate levels of human disturbance or substantial habitat impacts, including, but not limited to: low density residential (no more than one home per five acres), active recreation, and moderate agricultural land uses.

60. “Native,” when referring to plants or plant communities, means those species or communities that are indigenous to the watershed, including extirpated species.

61. “New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

62. “No net loss of functions activity” shall result in no net loss of functions provided by the critical areas. The beneficial functions provided by critical areas include, but are not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage; conveyance and attenuation of flood waters; ground water recharge and discharge; erosion control; and wave attenuation. These beneficial functions are not listed in order of priority. This chapter is also intended to protect residents from hazards and minimize risk of injury or property damage.

63. “Normal water year” means a twelve-month period (October 1st through September 30th) with average precipitation based upon data from the past fifty years.

64. “Nuisance vegetation” means noxious weeds such as Tansy Ragwort, purple loosestrife, Eurasian milfoil, nonnative blackberries, or other plants listed as noxious by Clark County Code 7.14.070; or any plant which when established is highly destructive, competitive or difficult to control by manual, mechanical or chemical practices.

65. “Obligate,” “facultative wet,” and “facultative” refer to groupings of plants according to their frequency of occurrence in wetlands. Obligate wetland plants almost always (ninety-nine percent probability) occur in wetlands under natural conditions. Facultative wet plants usually (sixty-seven percent to ninety-nine percent probability) occur in wetlands. Facultative plants are equally likely (thirty-four percent to sixty-six percent probability) to occur in wetlands or nonwetlands. Such groupings are more fully defined in the Wetlands Delineation Manual.

66. “Open water,” when not specifically defined by the rating criteria, means a proportion of open water to vegetative cover equal to twenty-five percent to seventy-five percent of the total wetland area during a majority of a normal water year.

67. “Ordinary high water mark” shall mean 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 unusual, 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 existing on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the city or state agency; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark shall be the line of mean high water.

68. “Priority habitat and species (PHS)” shall mean the official definitions and all area classifications by that name used by the Washington Department of Fish and Wildlife (DFW). Known local categories of priority habitat as defined by DFW include riparian habitat, oak woodlands, old growth/mature forest, urban natural open space, snags and talus rock. Priority species sites include all areas within a three-hundred-foot buffer and state listed endangered, threatened, sensitive or candidate habitat. Battle Ground shall defer to the DFW in regards to classification, mapping and interpretation of PHS.

69. “Qualified groundwater professional” means a hydrogeologist, geologist, engineer, or other scientist licensed in the state of Washington who meets all the following criteria:

a. Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and

b. Has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, profession certifications, or completion of accredited university programs that enable that individual to make sound professional judgments regarding groundwater vulnerability.

70. “Recreational vehicle” means a vehicle:

a. Built on a single chassis;

b. Four hundred square feet or less when measured at the largest horizontal projection;

c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

71. “Restoration” means the activities undertaken to reestablish the natural structure or function of habitat area or portion thereof, such as replanting of adequate and appropriate vegetation, soil amendment, or reconstruction of stream banks.

72. “Riparian corridor” means a defined area located along riparian areas.

73. “Riparian zone” or “corridor” means areas encompassing riparian priority habitat, a subset of priority habitat and as defined by the Washington Department of Fish and Wildlife (DFW), extending outward from the ordinary high water mark of waters to the one-hundred-year floodplain or the following distances if greater. Definitions of the Type 1 through 5 waters are found in WAC 222-16-030.

a. DNR Type 1 and 2 waters, two hundred fifty feet;

b. DNR Type 3 waters, two hundred feet;

c. DNR Type 4 and 5 waters, one hundred fifty feet.

Erosion gullies or rills and streams which are man-made, less than six inches wide or not having a defined bed and/or bank are not included.

74. “Scrub-shrub wetland” means a wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height as the uppermost strata.

75. “Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-induced soil liquefaction, ground-shaking amplification, slope failure, settlement, or surface faulting. Relative seismic hazard is mapped on Plates 1 and 2 of the report Relative Earthquake Hazard Map of

the Vancouver, Washington, Urban Area, published by the Washington Department of Natural Resources.

76. Reserved.

77. “Slope” means an inclined ground surface, the inclination of which is expressed as a percent ratio of vertical distance to horizontal distance (v/h).

78. “Snags” means dead, dying or defective trees serving as an important structural element of wildlife habitat.

79. “Solid waste” means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction waste, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials that are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes, but is not limited to, sludge from wastewater treatment plants and seepage, septic tanks, wood waste, dangerous waste, and problem wastes.

80. “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 one hundred eighty days of the permit date. 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.

81. “Steep slope hazard area” means an area where there is not a mapped or designated landslide hazard, but there are steep slopes equal to or greater than forty percent slope. Steep slopes that are less than ten feet in vertical height and not part of a larger steep slope system, and steep slopes created through previous legal grading activity, are not regulated steep slope hazard areas. The presence of steep slope suggests that slope stability problems are possible.

82. “Stream bank stabilization” means those approved bioengineered projects. The projects can include both passive and active types of methods for stabilizing the stream bank.

83. “Streams” means those areas where surface waters produce a defined channel or bed excluding streams and lakes regulated under the state Shorelines Management Act.

84. “Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

85. “Subject property” means the entire lot or parcel, or contiguous combination thereof, on which a development activity is proposed.

86. “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 fifty percent of the market value of the structure before the damage occurred.

87. “Substantial improvement” means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

a. Before the improvement or repair is started; or

b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or any other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

a. Any project for improvement of a structure to correct precited existing violations of state or local health, sanitary or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

88. “Surface mining operations” means mining of rock, stone, gravel, sand, earth and minerals.

89. “Triggering application” means an application for one of the permits or approvals listed in BGMC 18.260.060.

90. “Underground storage tank” or “UST” means:

a. An underground storage tank and connected underground piping as defined in the rules adopted under Chapter 90.76 RCW; or means any one or combination of tanks (including underground pipes connected thereto) that are used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground. This term does not include any of the exempt UST systems specified in WAC 173-360-110(2), or any piping connected thereto.

b. Exemptions. The following UST systems, including any piping connected thereto, are exempt from the requirements of this chapter:

i. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;

ii. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 307(b) or 402 of the Clean Water Act;

iii. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

iv. Any UST system whose capacity is one hundred ten gallons or less;

v. Any UST system that contains a de minimis concentration of regulated substances;

vi. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

vii. Farm or residential UST systems of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

viii. UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of one thousand one hundred gallons are subject to the release reporting requirements of WAC 173-360-372;

ix. Septic tanks;

x. Any pipeline facility (including gathering lines) regulated under:

A. The Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671, et seq.); or

B. The Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001, et seq.); or

C. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in the definition of “underground storage tank” listed above;

xi. Surface impoundments, pits, ponds, or lagoons;

xii. Storm water or wastewater collection systems;

xiii. Flow-through process tanks;

xiv. Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or

xv. Storage tanks situated in an underground area (such as a basement, cellar, vault, mine working drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

91. “Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. Any variance applied for in this chapter must meet the requirements and go through the variance process as described in Chapter 17.149 BGMC.

92. “Vegetation” means any and all plant life.

93. “Water-dependent” means a use or a portion of a use that requires direct contact with the water and cannot exist at a nonwater location due to the intrinsic nature of its operations.

94. “Watershed” means an area draining to a single surface water system as shown on the city of Battle Ground wetland watershed map adopted by reference.

95. “Wetlands” means areas that are inundated or saturated by surface water or groundwater 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 created to mitigate conversion of wetlands.

96. “Wetland classes and subclasses” means descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al., 1978).

97. “Wetlands Delineation Manual” means the manual adopted by the Washington State Department of Ecology pursuant to RCW 90.58.380. (Ord. 12-06 § 1, 2012: Ord. 06-16 § 5, 2006; Ord. 04-025 § 3 (part), 2004)

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More information on commercial and residential use of chemicals can be found in Department of Ecology “Guidance Document for Establishment of Critical Aquifer Recharge Areas Ordinances” Version 3.0, Publication #97-30; and from the State Department of Agriculture, http://www.wa.gov/agr/.

Chapter 18.270
WETLANDS

Sections:

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18.270.115 Wetland replacement.
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18.270.010 Purpose.

It is the purpose of this chapter to provide balanced wetland protection measures which:

A. Ensure the goal of no net loss of wetland acreage and functions;

B. Encourage restoration and enhancement of degraded and low quality wetlands;

C. Provide a high level of protection for higher-quality wetlands;

D. Maintain consistency with federal wetland protective measures;

E. Balance the need for the protection of natural resources with private property rights and economic development. (Ord. 04-025 § 4 (part), 2004)

18.270.020 Exempted wetlands.

The following wetlands are not subject to regulation under this chapter:

A. 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, stormwater facilities, farm ponds, and landscape amenities; provided, that wetlands created as compensatory mitigation shall not be exempted.

B. Isolated Category 4 wetlands that are less than ten thousand square feet in size and isolated Category 2 and 3 wetlands that are less than twenty-five hundred square feet that are not located within

the buffer of a nonexempt wetland. If the city has established a fee program for wetland impacts, these nonexempt wetlands are subject to such a fee unless preserved. (Ord. 04-025 § 4 (part), 2004)

18.270.030 Wetland determination.

The director shall determine if a wetland delineation is required based on the probable presence of a regulated wetland or buffer on a project site as shown by a mapped hydric soil, mapped wetland of the National Wetland Inventory or other resource map available to the city, a site investigation, or other available resource indicating that a wetland may be located on or adjacent to the subject site. (Ord. 04-025 § 4 (part), 2004)

18.270.040 Wetland delineation.

A wetland delineation is required for all projects that contain a wetland or wetland buffer on the project site. Delineations shall meet the following requirements:

A. Wetlands shall be rated based on BGMC 18.270.060 and the following:

1. A single wetland may be classified into more than one category if distinct areas exist in the wetland that clearly meet the description of separate categories.

2. Wetlands that are improved and now meet the criteria for a higher category are classified according to the characteristics of the improved wetland.

B. Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the Wetlands Delineation Manual. If a wetland is located off-site and is inaccessible, the best available information shall be used to determine the wetland boundary and category.

C. Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the department. The report shall include the following information:

1. Topographic map of area;

2. National wetland inventory map showing site;

3. Natural Resource Conservation Service soils map showing site;

4. Site map, at a scale no smaller than one inch equals one hundred feet, if practical, showing the following information:

a. Wetland boundaries showing proposed development activities;

b. Sample sites and sample transects;

c. Boundaries of forested areas; and

d. Boundaries of each wetland class clearly labeled;

5. Discussion of methods and results with special emphasis on technique used from the Wetlands Delineation Manual (DOE Manual);

6. Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design;

7. All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site.

D. Responsibility. The wetland delineation is the responsibility of the applicant. The director shall verify the accuracy of the boundary delineation within twenty-eight working days of receiving the delineation report. This review period may be extended when excessively dry conditions prohibit the confirmation of the wetland delineation. If the delineation is found to not accurately reflect the boundary of the wetland, the director will issue a report, within thirty working days of receiving the applicant's delineation report, citing evidence (for example, soil samples) that demonstrates where the delineation is in error. The applicant may then either revise the delineation and submit another report or administratively appeal. The appeal shall be filed as a separate action from the underlying permit in order that a determination can be made on the appeal so the applicant can move forward with site design.

E. Wetland Function and Value Assessment. The wetland delineation shall contain an analysis of the wetland functions and values using the following methodology based on the size of the wetland.

1. Washington State Wetland Rating System for Western Washington;

2. WAFAM: Washington Freshwater Assessment Methodology for depressional or riverine wetlands one-half acre or greater. Methods for Assessing Wetland Functions, DOE 99-115;

3. WADOT: Washington Department of Transportation Wetland Functions Characterization Tool for Linear Projects, June 2000 for depressional and riverine wetlands less than one-half acre.

F. Wetland delineations shall be completed by a professional wetland scientist as demonstrated by:

1. Maintaining current certification from the Society of Wetland Scientists as a Professional Wetland Scientist (PWS); or

2. Having sufficient training and experience in wetland identification and related fields as may be demonstrated by the completion of accredited university baccalaureate or postgraduate programs and/or a combination of education and experience that enable that individual to make sound professional judgments regarding wetland identification and delineation.

G. The city may retain a consultant to review the wetland delineation and require the applicant to modify or obtain additional information. (Ord. 06-02 § 1, 2006; Ord. 04-025 § 4 (part), 2004)

18.270.050 Standard requirements.

Any action granting or approving a triggering application shall be conditioned on all the following:

A. Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing made only of wood, or other prominent physical marking approved by the director. In addition, signs measuring no more than six square feet in area and no shorter than four feet nor higher than six feet shall be posted at an interval of one per lot or every one hundred feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the director worded substantially as follows:

—Wetland Buffer—

Please retain in a natural state

BGMC 18.270.050

The signage and fencing shall be installed prior to any land alteration or construction. (Ord. 04-025 § 4 (part), 2004)

18.270.060 Wetland rating system.

Wetlands shall be rated and their functions scored according to the Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents (Western Washington, Ecology Publication No. 93-74) or as revised or replaced by Ecology. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the ordinance codified in this chapter and as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications. Wetlands shall be categorized into the standard rating system of Category I, Category II, Category III or Category IV as described in the Washington State DOE manual. (Ord. 04-025 § 4 (part), 2004)

18.270.070 Buffer requirements.

A. Determining Buffer Widths. Buffer widths shall be measured horizontally outward from the delineated wetland boundary based on the base buffer width identified in Table 18.270.070-1 and any adjustments required by Tables 18.270.070-3 through 18.270.070-7.

Table 18.270.070-1

Wetland Category	Base Buffer Width
Category I	150 feet

Category II	100 feet
Category III	50 feet
Category IV	25 feet

B. Buffer Width Modifications. The buffer widths established by BGMC 18.270.070(A) may be increased or decreased through the requirements of this section.

1. Land Use Impact Category. Proposed land uses adjacent to the wetland shall be divided into the categories in Table 18.270.070-2 to determine increases or decreases in the base buffer width:

Table 18.270.070-2

Rating of impact from proposed changes in land use	**Types of land uses that cause the impact based on common zoning categories**
High	Commercial, urban, industrial, institutional, retail sales, residential with more than 1 unit per acre, high intensity recreation (golf course, ball fields)
Moderate	Residential with 1 unit per acre or less, parks
Low	Forestry, open space

2. Buffer Adjustment Based on Wetland Function Scores. Buffers will be increased or decreased based on the land use impact category and function score of the wetland as determined by the “Washington State Wetland Rating System for Western Washington” as indicated in Tables 18.270.070-3 through 18.270.070-7.

Table 18.270.070-3

Width of Buffers for Category IV Wetlands

Wetland characteristics	Buffer width adjustment to 25 ft. base width (based on land use impact)	Other protections
Score for functions < 30 points	Low—No change Moderate—No change High—Increase by 25 ft.	N/A

Table 18.270.070-4

Width of Buffers for Category III Wetlands

Wetland characteristics	Buffer width adjustment to 50 ft. base width (based on land use impact)	Other protections
Moderate level of function for habitat. (Score for habitat is 20-28 pts.)	Low—Increase by 25 ft. Moderate—Increase by 60 ft. High—	N/A

	Increase by 100 ft.	
Not meeting above criteria	Low—Decrease by 10 ft. Moderate—No change. High—Increase by 30 ft.	N/A

Table 18.270.070-5

Width of Buffers for Category II Wetlands

Wetland characteristics	**Buffer width adjustment to 100 ft. base width (based on land use impact)**	**Other protections**
High level of function for habitat. (Score for habitat is 29-36 pts.)	Low—Increase by 50 ft. Moderate—Increase by 125 ft. High—Increase by 200 ft.	Maintain connectivity to fish and wildlife species.
Moderate level of function for habitat. (score for habitat is 20-28 pts.)	Low—Decrease by 25 ft. Moderate—Increase by	N/A

	10 ft. High—Increase by 50 ft.	
High level of function for water quality improvement and low for habitat. (score water quality is 24-32 pts. and habitat is less than 20 pts.)	Low—Decrease by 50 ft. Moderate—Decrease by 25 ft. High—No change.	No additional discharges of untreated runoff.
Not meeting above criteria.	Low—Decrease by 50 ft. Moderate—Decrease by 25 ft. High—No change.	N/A

Table 18.270.070-6

Width of Buffers for Category I Wetlands

Wetland characteristics	**Buffer width adjustment to 150 ft. base width (based on land use impact)**	**Other protections**
Natural Heritage Wetlands	Low—Decrease by	No additional discharges of

	25 ft. Moderate—Increase by 40 ft. High—Increase by 100 ft.	surface water. No septic systems within 300 feet. Restore degraded parts of buffer.
Bogs	Low—Decrease by 25 ft. Moderate—Increase by 40 ft. High—Increase by 100 ft.	No additional discharges of surface water. Restore degraded parts of buffer.
Forested	Buffer size to be based on score for habitat or water quality functions.	If forested wetland scores high for habitat, need to maintain connectivity to other natural areas. Restore degraded parts of buffer.
High level of function for habitat. (Score for habitat is 29-36 pts.)	Low—No change Moderate—Increase by 75 ft. High—Increase by 150 ft.	Maintain connectivity to other natural areas. Restore degraded parts of buffer.
Moderate level of	Low—	N/A

function for habitat. (Score for habitat is 20-28 pts.)	Decrease by 75 ft. Moderate—Decrease by 40 ft. High—No change.	
High level of function for water quality improvement and low for habitat. (Score water quality is 24-32 pts. and habitat is less than 20 pts.)	Low—Decrease by 100 ft. Moderate—Decrease by 75 ft. High—No change.	No additional discharges of untreated runoff.
Not meeting above criteria.	Low—Decrease by 100 ft. Moderate—Decrease by 75 ft. High—Decrease by 50 ft.	N/A

C. Land Use Impact Reduction. Buffer widths for high impact land uses may be reduced to those for moderate impacts under the following conditions:

1. For wetlands that score moderate to high for habitat, the width of the buffer can be reduced if the following conditions are met:

a. A relatively undisturbed vegetated corridor of at least one hundred feet in width is protected which connects the wetland with another wetland or other priority habitat as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected between the two protected areas via some type of legal protection; and

b. Measures to minimize the impacts of different land uses are applied as indicated in Table 18.270.070-7.

2. For wetlands that score less than twenty points for habitat, the buffer width can be reduced to those for moderate land uses if measures to minimize the impacts of different land uses are applied as indicated in Table 18.270.070-7.

Table 18.270.070-7

Examples of Disturbance	Examples of Measures to Minimize Impacts Activities that Cause the Disturbance	Activities that Cause the Disturbance
Lights	Direct lights away from the wetland.	Parking lots, warehouses, manufacturing, high density residential.
Noise	Place activity that generates noise away from the wetland.	Manufacturing, high density residential.
Toxic runoff	Route all new untreated runoff away from wetland. Covenants limiting use of pesticides within 150 ft. of wetland. Integrated pest management programs.	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping.
Change in water regime	Infiltrate or treat, detain and dispense into buffer new runoff from surfaces.	Any impervious surface, lawns, tilling.
Pets and human disturbance	Fence around buffer. Plant buffer with “impenetrable” natural vegetation appropriate for region.	Residential areas.
Dust	BMPs for dust.	Tilled fields.

(Ord. 04-025 § 4 (part), 2004)

18.270.080 Buffer modifications

A. Wetland Buffer Width Averaging. The director may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified wetlands professional demonstrates that all the following criteria is met:

1. It will not reduce wetland functions or values; and

2. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places; and

3. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

4. The buffer width is not reduced to less than seventy-five percent of the width established by BGMC 18.270.070; and

5. The averaging is accomplished on the project site or through an off-site conservation easement or tract approved by the director. (Ord. 04-025 § 4 (part), 2004)

18.270.090 Wetland buffer maintenance and monitoring.

A wetland buffer is to be maintained in a healthy manner and may be subject to periodic inspection by the city. When installation of wetland buffer is required by this title, to assure survival of new plantings, the owner shall be responsible for the monitoring, maintenance and replacement, if necessary, of wetland buffer plantings to assure one hundred percent survival for trees and ninety percent survival for shrubs and ground cover. The mandatory maintenance of wetland buffer for a five-year period shall be assured by the developer prior to the final acceptance of a buffer by requiring one of the following options, subject to approval of the city as to legal form prior to acceptance:

A. The posting of a performance bond for one hundred fifty percent of the estimated cost of maintenance of wetland buffer, as approved by the director;

B. The depositing with the city treasurer/finance director of a certified or cashiers check for one hundred fifty percent of the estimated cost of wetland buffer, as approved by the director;

C. Filing with the director of a copy of a service contract for maintenance of wetland buffer; and

D. Such other written commitments that will assure satisfactory maintenance of a wetland buffer as approved by the director. (Ord. 04-025 § 4 (part), 2004)

18.270.100 Standards—Buffer activities.

Wetland buffers shall remain undeveloped and undisturbed except for the following activities. Appropriate mitigation shall be required if the activities result in impacts to wetlands:

A. Stormwater Facilities. Stormwater facilities are allowed, provided the facilities will not degrade the wetland or buffer and are designed to blend with the natural landscape. Unless determined otherwise by the director, the following activities shall be considered to degrade a wetland buffer when they are associated with the construction of a stormwater facility:

1. A reduction in buffer type;

2. Removal of trees greater than four inches diameter at four and one-half feet above the ground or greater than twenty feet in height;

3. Disturbance of plant species that are listed as rare, threatened or endangered by the city of Battle Ground or any state or federal management agency;

4. The construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility;

5. The construction of maintenance and access roads;

6. Slope grading steeper than four to one horizontal to vertical above the normal water surface elevation of the stormwater facility;

7. The construction of pretreatment facilities such as forebays, sediment traps, and pollution control manholes;

8. The construction of trench drain collection and conveyance facilities;

9. The placement of fencing unless it meets the requirements for fencing below;

10. The placement of rock and/or riprap, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas covered in rock and/or riprap are replaced; and

11. Other activities shown to degrade the wetland or buffer through a critical areas report.

B. Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all the following conditions are met:

1. Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced.

2. Impacts to the buffer and wetland are minimized.

3. The road and/or utilities take the shortest route possible through the buffer.

4. Appropriate landscaping is provided along the roadway to shield wetlands from activity on the roadway.

C. Fences. Fences are permitted within buffers; provided, that the following criteria is met:

1. Vegetation clearing necessary to install the fence shall be the minimum amount possible to install the fence using hand tools only;

2. Fences shall consist of open natural materials such as wood split rail or field fencing that allows for the unhindered movement of water and wildlife across the fence line except that fences within existing improved yards may be composed of other materials; and

3. Applicable development approvals do not prohibit such installation.

D. Other Temporary Activities in a Buffer. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following conditions are met:

1. The activity is temporary and will cease or be completed within three months of the date the activity begins;

2. The activity will not result in a permanent structure in or under the buffer;

3. The activity will not result in a reduction of buffer acreage, type, or functions;

4. The activity will not result in a reduction of wetland acreage, classification, or functions; and

5. Clearing is limited to the minimum necessary to complete the activity and the cleared areas are restored upon completion. (Ord. 04-025 § 4 (part), 2004)

18.270.110 Standards—Wetland activities.

A. Activities within wetland boundaries or the filling of wetlands are generally prohibited subject to the specific standards and exceptions of this section and meeting the mitigation sequencing contained in BGMC 18.260.120.

B. Category I Wetlands.

1. The filling or draining of Category I wetlands is prohibited unless the proposed activity cannot be accomplished in a different location.

2. Other activities in Category I wetlands are prohibited except for road, utility and other public purposes where there is no other practicable location or alternative for the activity.

C. Category II Wetlands.

1. The filling or draining of Category II wetlands is prohibited subject to the mitigation sequencing contained in BGMC 18.260.120.

2. Other activities in Category II wetlands are prohibited except for road, utility and other public purposes where there is no other practicable location or alternative for the activity, provided the following conditions are met:

a. The activity does not result in a decrease in wetland acreage or classification; and

b. Impacts to the wetland are minimized.

D. Category III and IV Wetlands.

1. The filling or draining of Category III and IV wetlands is prohibited unless consistent with the mitigation sequencing contained in BGMC 18.260.120.

2. Road and Utility Crossings. Crossing wetlands by utilities or roads is allowed, provided the following conditions are met:

a. The activity does not result in a decrease in wetland acreage or classification; and

b. Impacts to the wetland are minimized.

3. Fences. Fences are permitted; provided, that the following criteria is met:

a. Vegetation clearing necessary to install the fence shall be the minimum amount possible to install the fence using hand tools only;

b. Fences shall consist of open natural materials such as wood split rail or field fencing that allows for the unhindered movement of water and wildlife across the fence line except that fences within existing improved yards may be composed of other materials; and

c. Applicable development approvals do not prohibit such installation.

4. Other Activities in a Wetland. Regulated activities not involving utility crossings or wetland replacement are allowed in a wetland; provided, the following conditions are met:

a. The activity will not result in a reduction of wetland acreage, classification or functions; and

b. The activity is temporary and will cease or be completed within three months of the date the activity begins.

E. All wetland activity is subject to the review and approval of a critical areas report and is subject to the requirements of BGMC 18.270.115, Wetland replacement. (Ord. 04-025 § 4 (part), 2004)

18.270.115 Wetland replacement.

Where a wetland is filled or impacted by an activity, wetland replacement shall be required consistent with the following standards:

A. Replacement wetlands shall be located on-site or in the same local watershed as impacted wetlands;

B. Replacement or enhanced wetlands shall be of the same or greater category and shall provide the same or greater function and values of the wetland being replaced;

C. Replacement Ratios for Creation and Restoration. The following ratios apply when a wetland is restored or created with the same category of wetland and the replacement is accomplished within one year of the wetland impact:

Wetland Category	Mitigation Ratio: Replacement Area/Impacted Area
Category I	6:1
Category II	3:1
Category III	3:1
Category IV	1.5:1

1. Enhanced Replacement. Enhancing wetlands to increase functions and values, at a minimum, enhancement acreage shall be double the acreage required for creation or restoration. Category IV wetland may be enhanced to Category II or III wetlands.

2. The mitigation ratio will double for unauthorized impacts to any category wetland.

3. Replacement ratios may be decreased if the applicant provides documentation that the proposed compensation will be more certain of success, documentation that the proposed compensation project will provide functions and values that are significantly greater than the wetland being impacted, or the proposed mitigation has or will be conducted in advance and is shown to be successful;

D. Wetland replacement projects shall consider the guidance provided for in the “Guidance on Wetland Mitigation in Washington State,” Washington State Department of Ecology publication No. 04-06-013A and No. 04-06-013B in developing plans;

E. Wetland Preservation. Wetland preservation shall be allowed for protection of Category I and II wetlands for impacts less than one-half acre. (Ord. 04-025 § 4 (part), 2004)

18.270.120 Wetland banking.

A. Construction, enhancement or restoration of wetlands to use as mitigation for future wetland development impacts in the same watershed is permitted subject to the following:

1. A critical area permit shall be obtained prior to any mitigation banking. If a critical area permit is not obtained prior to mitigation bank development, mitigation credit will not be awarded. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate critical area permit will be required for each activity. The performance and maintenance bond requirements of Chapter 18.260 BGMC shall not be applicable, provided there are no requests for mitigation credit prior to the city determining the mitigation banking is successful. If mitigation banking is not fully functioning, as defined in the critical area permit, at the time mitigation credit is requested, the performance and maintenance bond requirements shall apply.

2. Federal and state wetland regulations, if applicable, shall supersede city requirements.

B. The mitigation credit allowed will be determined by the city, based on the wetland category, condition and mitigation ratios as specified in subsection (1) of this section.

C. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate permit fee will be required for each activity.

D. Purchase of banked wetland credits is permitted to mitigate for wetland impacts in the same watershed, provided the applicant has minimized wetland impacts, where reasonably possible, and the following requirements are met:

1. Documentation, in a form approved by the city attorney, adequate to verify the transfer of wetland credit shall be submitted; and

2. A plat note along with information on the title shall be recorded in a form approved by the prosecuting attorney as adequate to give notice of the requirements of this section being met by the purchase of banked wetland credits. (Ord. 04-025 § 4 (part), 2004)

18.270.130 Emergency wetlands permit.

A. Authorization. Notwithstanding the provisions of this chapter or any other laws to the contrary, the director may issue prospectively or, in the case of imminent threats, retroactively a temporary emergency wetlands permit if:

1. The director determines that an unacceptable threat to life or loss of property will occur if an emergency permit is not granted; and

2. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this act and other applicable laws.

B. Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for nonemergency activities under this act and shall:

1. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety days.

2. Require, within this ninety-day period, the restoration of any wetland altered as a result of the emergency activity, appropriate mitigation for impacts or a permit and mitigation for the permanent or temporary impacts resulting from the activity, except that if more than the ninety days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.

3. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in the city of Battle Ground not later than ten days after issuance of such permit.

4. Termination. The emergency permit may be terminated at any time without process upon a determination by the director that the action was not or is no longer necessary to protect human health or the environment.

C. Any work conducted under an emergency permit that is to remain permanently shall be subject to a review and approval under the normal permit process. (Ord. 04-025 § 4 (part), 2004)

Chapter 18.280
FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Sections:

18.280.010 Purpose.
18.280.020 Applicability.
18.280.030 Approval criteria.
18.280.040 Fish and wildlife habitat designations.
18.280.050 Buffer designations and widths.
18.280.060 Exempt and reviewed activities.
18.280.070 Standard requirements.
18.280.080 Reduction of habitat buffer widths.
18.280.090 Buffer activities.
18.280.100 Enhancement and mitigation.
18.280.110 Locally important habitat designation procedure.

18.280.010 Purpose.

The purpose of this section is to protect environmentally distinct, fragile and valuable fish and wildlife habitat areas for present and future generations, and to conserve the functional integrity of the habitats needed to perpetually support fish and wildlife populations, while also recognizing the need for development activities within the city of Battle Ground. (Ord. 04-025 § 5 (part), 2004)

18.280.020 Applicability.

This chapter applies to lands designated as fish and wildlife conservation areas as defined in BGMC 18.280.040. Activities are permitted within areas so designated if they do not substantially diminish the habitat functions and values and they are consistent with the standards of this chapter. (Ord. 04-025 § 5 (part), 2004)

18.280.030 Approval criteria.

A. Development or clearing activities shall protect the functions of the habitat conservation areas on the site. The activity shall result in no net loss of functions. Protection can be provided by avoiding (the preferred protection) or minimizing and mitigating as described in the general critical areas performance standards (BGMC 18.260.115). Functions include:

1. Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and

2. Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

B. An applicant shall replace any lost functions by enhancement to other functions, so long as the applicant demonstrates that enhancement of the other functions provides no net loss in overall functions and maintains habitat connectivity. An example of unavoidable loss of function would be interruption of a travel corridor in a riparian management area or buffer. To the maximum extent feasible, enhancement shall be undertaken on-site.

C. Applicants for activity within critical habitat for federally endangered or threatened fish and wildlife species is subject to protections as established under Section 4(d) of the Endangered Species Act of 1973. (Ord. 06-16 § 6, 2006: Ord. 04-025 § 5 (part), 2004)

18.280.040 Fish and wildlife habitat designations.

The following table of habitat areas are general descriptions and are designated as critical areas under this title.

Habitat Area	General Description
Locally Important Habitat	Habitat that has been determined by the city to contain unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators and is rare within the city and surrounding region or represents the highest quality of available habitat.
Locally Significant Waterfowl or Shorebird Areas	Areas designated by ordinance as being important local habitat for the continued presence of waterfowl or shorebirds.
Riparian Habitat	Streams, rivers and associated riparian corridors.
Priority Habitats—Salmon Creek, East Fork of the Lewis River	The East Fork Lewis River and Salmon Creek including associated riparian corridors.
Critical Habitat for Federally Threatened and Endangered Fish and Wildlife Species	Habitat that has been determined by the Secretary of the Interior or Secretary of Commerce as critical habitat under Section 4(a) of the Endangered Species Act of 1973 and has been confirmed through a scientific analysis to occur within the city of Battle Ground.
Oregon White Oak	Stands of pure oak or oak/conifer associations of 1/2 acre or greater in size where canopy coverage of the oak component of the stand is 25 percent; or where total canopy coverage of the stand is less than 25 percent, but oak accounts for at least 50 percent of the canopy coverage present. Single trees or habitat areas of under 1/2 acre should be avoided but may be cleared if two trees a minimum of two inches

	DBH are planted on- or off-site but within or within one mile of the city urban growth boundary for each tree removed.

(Ord. 06-16 § 7, 2006: Ord. 04-025 § 5 (part), 2004)

18.280.050 Buffer designations and widths.

A. The following table designates buffer width for federal and state protected habitats in Battle Ground.

Critical Area	Buffer Width
Locally Significant Waterfowl or Shorebird Areas	Minimum 100 feet
Priority Habitats—Salmon Creek, East Fork of the Lewis River	250 feet
Locally Important Habitat	Buffers to be designated as habitat area during nomination process based on the needs of the habitat and species present.
Riparian Corridors along Woodin Creek	100-foot buffer, 50-foot undisturbed closest to creek, with 50-foot allowable uses such as trails
Other riparian corridors for waterways not listed above	50 feet
Critical Habitat for Federally Threatened and Endangered Fish and Wildlife Species	Subject to regulations established under Section 4(d) of the Endangered Species Act of 1973.
Oregon White Oak	None

B. The city of Battle Ground shall determine habitat buffer widths. All buffers shall be measured perpendicularly outward from the delineated habitat boundary or, in the case of a stream with no adjacent habitat, the ordinary high water mark as surveyed in the field. (Ord. 06-16 § 8, 2006: Ord. 04-025 § 5 (part), 2004)

18.280.060 Exempt and reviewed activities.

The following table lists activities that are exempt or require review under this chapter.

Proposal	Is a clearing review required?
Land division or other development activity entirely outside habitat areas or buffers	Exempt
Land division containing habitat areas or buffers	Exempt if impacted lots establish building and clearing envelopes outside of habitat
Fences	Review required
Remodel, replacement or expansion, not to exceed 25% of the 2004 footprint or 1,000 square feet, whichever is less, of existing home or existing accessory buildings inside habitat areas or buffers	Exempt

Farming, forestry or vegetation removal activities inside existing yards or areas of existing agricultural use	Exempt
Clearing authorized by forest practices applications other than conversions in habitat areas	Exempt
Clearing as minimally necessary for surveying or testing in habitat areas	Exempt
Development activities not specifically listed above in habitat areas	Review required
All other vegetation clearing not specifically listed above in habitat areas	Review required

(Ord. 04-025 § 5 (part), 2004)

18.280.070 Standard requirements.

All applications requiring review under this chapter shall have the following minimum conditions applied:

A. Marking Buffer During Construction. The location of the outer extent of the habitat buffer or, if no buffer is required, the habitat area shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

B. Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the habitat buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedgerow, wood or woodlike fencing, or other prominent physical marking approved by the director. In addition, signs measuring no more than six square feet in area and no shorter than four feet nor higher than six feet shall be posted at an interval of one per lot or every one hundred feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the habitat buffer approved by the director worded substantially as follows:

—Habitat Buffer—

Please retain in a natural state

C. A conservation covenant shall be recorded in a form approved by the city attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a permit prior to engaging in regulated activities within a habitat or its buffer.

D. In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the priority habitat and species and its buffer and a reference to the separately recorded conservation covenant provided for in subsection C of this section.

E. The signage noted above shall be installed prior to any land alteration or construction. (Ord. 04-025 § 5 (part), 2004)

18.280.080 Reduction of habitat buffer widths.

A. The director may allow the standard habitat buffer width to be reduced in accordance with an approved critical area report and the best available science on a case-by-case basis when it is determined that a smaller area is adequate to protect the habitat functions and values based on site-specific characteristics.

1. This determination shall be supported by documentation showing that a reduced buffer is adequate based on all of the following criteria:

a. The critical area report provides a sound rationale for a reduced buffer based on the best available science;

b. The existing buffer area is well-vegetated with native species and has less than ten percent slopes; and

c. No direct or indirect, short-term or long-term, adverse impacts to habitats will result from the proposed activity.

2. The director shall require five-year monitoring of the buffer and habitat. Subsequent corrective actions may be required if adverse impacts to the habitat are discovered during the monitoring period.

3. In no case shall the standard buffer width be reduced by more than fifty percent, or the buffer width be less than fifty feet.

B. Habitat Buffer Width Averaging. The director may allow modification of the standard habitat buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Buffer width reductions shall only be considered when:

1. It will not reduce habitat functions or values;

2. The habitat contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the habitat would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

3. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

4. The buffer width is not reduced to less than twenty-five percent of the standard width or fifty feet, whichever is greater.

C. Completing the following activities will result in reductions in the required buffer widths:

1. Shielding High Intensity Uses. Shielding the buffer from adjacent high intensity uses shall result in a decrease in such adjusted base buffer width of ten percent. Shielding includes, but is not limited to, berms

and permanent solid fences. For commercial and industrial uses, shielding also includes orienting the building so the building itself acts as a shield to the buffer and habitat;

2. Hydrologic Improvement to the Habitat. Permanent improvements to the hydrology of a habitat ecosystem, such as removing a ditch that is draining a habitat, shall result in a decrease in the base buffer width of ten percent;

3. Fish and Wildlife Enhancement. Substantial improvements to the fish and wildlife habitat or buffer, such as importing snags or meandering a channelized stream, shall result in a decrease in the base width of ten percent.

4. The director shall require five-year monitoring of the buffer and habitat. Subsequent corrective actions may be required if adverse impacts to the habitat are discovered during the monitoring period.

5. In no case shall the standard buffer width be reduced by more than twenty-five percent, or the buffer width be less than fifty feet. (Ord. 04-025 § 5 (part), 2004)

18.280.090 Buffer activities.

A. Stormwater. Construction of stormwater facilities within a buffer is allowed provided all of the following conditions are met:

1. No removal of trees greater than four inches diameter at four and one-half feet above the ground or greater than twenty feet in height;

2. No disturbance of plant species that are listed as rare, threatened or endangered by the city of Battle Ground or any state or federal management agency;

3. No construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility;

4. No construction of maintenance and access roads;

5. No slope grading steeper than four to one horizontal to vertical above the normal water surface elevation of the stormwater facility;

6. The construction of pretreatment facilities such as forebays, sediment traps, and pollution control manholes in the buffer is not permitted;

7. The construction of trench drain collection and conveyance facilities in the buffer is not permitted;

8. The placement of fencing in the buffer is not permitted unless the fencing meets the conditions in subsection D of this section; and

9. The placement of rock and/or riprap is not allowed, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways; provided, that buffer functions for areas covered in rock and/or riprap are replaced.

B. Road and Utility Crossings. Crossing buffers with new roads and/or utilities is allowed provided all the following conditions are met:

1. Buffer functions, as they pertain to protection of the adjacent habitat and its functions, are replaced; and

2. Impacts to the buffer and habitat are minimized and mitigated.

C. Other Activities in a Buffer. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following conditions are met:

1. The activity is temporary and will cease or be completed within three months of the date the activity begins;

2. The activity will not result in a permanent structure in or under the buffer;

3. The activity will not result in a reduction of buffer acreage, type, or functions;

4. The activity will not result in a reduction of habitat acreage, classification, or functions; and

5. Clearing is limited to the minimum necessary to complete the activity and the cleared areas are restored upon completion.

D. Fences. Fences are permitted within buffers; provided, that the following criteria are met:

1. Vegetation clearing necessary to install the fence shall be the minimum amount possible to install the fence using hand tools only;

2. Fences shall consist of open natural materials such as wood split rail or field fencing that allows for the unhindered movement of water and wildlife across the fence line, except that fences within existing improved yards may be composed of other materials; and

3. Applicable development approvals do not prohibit such installation. (Ord. 04-025 § 5 (part), 2004)

18.280.100 Enhancement and mitigation.

A. Subject to individual circumstances, potential mitigation measures for impact to fish and wildlife habitat may include, but are not limited to, the following:

1. Enhancement, restoration or replacement of vegetation or other habitat features and functions. In riparian areas, this may include buffer averaging as specified in the Chapter 18.260 BGMC, General Provisions;

2. Exploring alternative on-site locations to avoid or reduce impacts of activities;

3. Preservation of important vegetation and natural habitat features through establishment of buffers or other limitations on clearing or alteration;

4. Managing the access to habitat areas;

5. Seasonal restriction on construction activities;

6. Implementation of best management practices;

7. Monitoring or review of impacts and taking appropriate action in response to findings;

8. Establishment of performance measures or bonding; and

9. Establishment of conservation covenants.

B. Battle Ground shall approve with conditions or, if necessary, deny proposals based on compliance with the basic criteria and the adequacy of mitigation measures to ensure compliance and applicable reasonable use assurances of Chapter 18.260 BGMC, General Provisions. Battle Ground shall retain final authority for such determinations, which shall be issued consistent with the review timelines of Chapter 18.260 BGMC, General Provisions, and shall be based on best scientific information and analysis available within those timelines. Battle Ground may consult with the Department of Fish and Wildlife and may substantially follow resulting recommendations of the DFW, unless alternative determinations are supported by scientific analysis. (Ord. 04-025 § 5 (part), 2004)

18.280.110 Locally important habitat designation procedure.

A. The designation of locally important habitat may occur once per year during the comprehensive plan amendment process. The director shall accept nominations at any time throughout the year and make recommendations to the planning commission on its suitability of designation.

B. Nominations for locally important habitat shall be accompanied by detailed information on the location, features, functions and values of the habitat and the reasons why it is important and deserves protection. Detailed mapping of the habitat area and its features shall accompany the request.

C. All property owners of land subject to a nomination shall be notified and given an opportunity to comment on the request.

D. In considering the designation of locally important habitat, the city shall utilize the following criteria:

1. The area contains unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators;

2. The habitat is rare within the city and surrounding region or represents the highest quality of available habitat;

3. Existing development regulations will not adequately protect the habitat.

E. The designation of a locally important habitat shall include buffer of adequate width based on the needs of the habitat and species present.

F. The director shall maintain a map of the designated locally important habitat. (Ord. 04-025 § 5 (part), 2004)

Chapter 18.290
CRITICAL AQUIFER RECHARGE AREAS

Sections:

18.290.010 Purpose.
18.290.020 Critical aquifer recharge area designations.
18.290.030 Classifications.
18.290.040 Vulnerability rating.
18.290.050 Report requirements—Critical aquifer recharge area.
18.290.060 Best management practices.
18.290.070 Exempt, prohibited, permitted, and provisional activities.
18.290.080 Prohibited activities in Category I.
18.290.090 Permitted activities by permit in Categories I and II in critical aquifer recharge areas.
18.290.100 Level 1 report contents and approval criteria.
18.290.110 Level 2 report contents and report criteria.

18.290.010 Purpose.

The purpose of this chapter is to protect groundwater in the city of Battle Ground. The city's water supply for its residents sits below the city proper. Appropriate mitigation should be taken when a development proposal may pose an impact to the groundwater and wellheads. Therefore, the following regulations shall be utilized in minimizing impacts to the city's aquifer recharge areas. (Ord. 04-025 § 6 (part), 2004)

18.290.020 Critical aquifer recharge area designations.

A. Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of groundwater resources or contribute significantly to the replenishment of groundwater. These areas include the following:

1. Wellhead Protection Areas. Wellhead protection areas may be defined by the boundaries of the ten-year time of groundwater travel, or boundaries established using alternate criteria approved by the

Department of Health in those settings where groundwater time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

2. Sole Source Aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.

3. Susceptible Groundwater Management Areas. Susceptible groundwater management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100 WAC.

4. Special Protection Areas. Special protection areas are those areas defined by WAC 173-200-090.

5. Moderately or Highly Vulnerable Aquifer Recharge Areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.

6. Moderately or Highly Susceptible Aquifer Recharge Areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic conditions.

B. CARAs can be referenced in the “Wellhead Protection Capture Zones, Land Use and Contamination Threats, and Zoning Map” (Figure 5) of the city of Battle Ground wellhead protection plan available at the Battle Ground planning department. Wells shall be added to the above-mentioned map, and shall include the one-, five-, and ten-year capture zones, as brought on-line. (Ord. 04-025 § 6 (part), 2004)

18.290.030 Classifications.

A. Category I is the highest priority CARA. Category I is the one-year time of travel for water wells.

B. Category II is the primary CARA. Category II is the five-to-ten-year time of travel for water wells.

C. Parcels that are partly within Category I and Category II shall be subject to the Category I provisions in this section.

D. Parcels that are partly inside Category II, but outside Category I, shall be subject to the Category II provisions in this section. (Ord. 04-025 § 6 (part), 2004)

18.290.040 Vulnerability rating.

A. For each well, a vulnerability rating must be established. Vulnerability ratings shall determine a CARA’s susceptibility to degradation or depletion. Wells existing prior to this report (2003) are recorded in the Battle Ground Wellhead Protection Plan, in the “Aquifer Vulnerability Matrix for Supply Wells” (Table No. 4). Wells 1 and 2 are highly vulnerable, wells 4 through 8 are less vulnerable.

B. New wells shall be added to the above-mentioned table, and shall include an aquifer vulnerability rating. (Ord. 04-025 § 6 (part), 2004)

18.290.050 Report requirements—Critical aquifer recharge area.
Where a critical area report is required for a development, the report shall contain the following information:

A. Areas determined to be moderately or highly vulnerable or susceptible to degradation or depletion because of hydrogeologic characteristics should be identified.

B. The report must be completed by a qualified professional. A CARA report shall be prepared by a qualified professional who is a hydrogeologist, geologist, or engineer, who is licensed in the state of Washington and has experience in preparing hydrogeologic assessments.

C. A hydrogeologic assessment required for all proposed activities to be located in a CARA, including:

1. Activities that result in five percent or more impervious site area;

2. Activities that divert, alter, or reduce the flow of surface or groundwaters, or otherwise reduce the recharging of the aquifer;

3. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than fourteen thousand five hundred gallons of effluent per day and that are limited to a maximum density of one system per one acre; or

4. Any other activity determined by the director likely to have an adverse impact on groundwater quality or quantity, or on the recharge of the aquifer. (Ord. 04-025 § 6 (part), 2004)

18.290.060 Best management practices.
The following are required for all developments within a designated CARA:

A. The following best management practices shall be used to help prevent pollution to groundwater and surface water in Battle Ground. An applicant choosing not to use the following BMPs shall be subject to the requirements of BGMC 18.290.110:

1. Bonding. Two-year construction bond. Applicants for stormwater permits must maintain facilities for two years and must post a maintenance bond. Private stormwater facilities shall be maintained for the life of the project by the owner;

2. Contingency Planning. Develop a contingency plan based on the Battle Ground Wellhead Protection Plan, Chapter Seven;

3. Design Standards.

a. Stormwater shall be treated prior to infiltration for the one-hundred-year-storm, as required for all stormwater discharges from development sites where local soil types and groundwater conditions are suitable.

b. Individuals shall implement the Washington Department of Ecology's stormwater, water quality, hazardous waste, wetland, and solid waste programs BMPs; and BMPs from the Departments of Health, Agriculture, Transportation and State Conservation District Office.

c. Design of stormwater control facilities shall be designed in accordance with the current Stormwater Manual for Western Washington.

4. Stormwater Infiltration Siting.

a. Treatment, runoff control, and recharge facilities shall be located prior to the point of discharge into a stream, lake, or fish-bearing water or prior to discharge into groundwater. These treatment, runoff control, and recharge facilities shall be located outside of the CARA or require BMPs to ensure groundwater protection.

b. Control pollution sources within WHPA to prevent spills through proper containment and handling and education with property owners within the WHPA. (Ord. 04-025 § 6 (part), 2004)

18.290.070 Exempt, prohibited, permitted, and provisional activities.

A. Exempt Activities in Categories I and II. The following activities are exempt from the standards of this chapter:

1. All residential uses and activities;

2. Other uses not listed in BGMC 18.290.080 or 18.290.090;

3. Activities already permitted and regulated by the state and Southwest Washington Health District to incorporate best management practices. (Ord. 04-025 § 6 (part), 2004)

18.290.080 Prohibited activities in Category I.

The following activities are considered high-impact uses due to the probability and/or potential magnitude of their adverse effects on groundwater and shall be prohibited within Category I:

A. Landfills;

B. Class V injection wells;

C. Agricultural drainage wells;

D. Untreated sewage waste disposal wells;

E. Cesspools;

F. Industrial process water and disposal wells;

G. Radioactive waste disposal;

H. Radioactive disposal sites; and

I. Surface mining operations. (Ord. 04-025 § 6 (part), 2004)

18.290.090 Permitted activities by permit in Categories I and II in critical aquifer recharge areas.

A. The following activities are allowed in both Categories I and II subject to review and approval:

1. Above- and below-ground storage tanks;

2. Facilities that conduct biological research;

3. Boat repair shops;

4. Chemical research facilities;

5. Dry cleaners;

6. Gasoline service stations;

7. Pipelines;

8. Printing and publishing shops (that use printing liquids);

9. Below-ground transformers and capacitors;

10. Sawmills (producing over ten thousand board feet per day);

11. Solid waste handling and processing;

12. Vehicle repair, recycling, and auto wrecking;

13. Funeral services;

14. Furniture stripping;

15. Motor vehicle service garages (both private and government);

16. Photographic processing;

17. Chemical manufacture and reprocessing;

18. Creosote and asphalt manufacture and treatment;

19. Electroplating activities;

20. Petroleum and petroleum products refining, including reprocessing;

21. Wood products preserving;

22. Golf course;

23. Regulated waste treatment, storage, and disposal facilities that handle hazardous material;

24. Medium quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste); and

25. Large quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste).

B. To receive a permit for development in a CARA area, the applicant must demonstrate, through a Level 1 site evaluation report, how they will integrate necessary and appropriate best management practices to prevent degradation to groundwater. The applicant must also meet existing local, state, and federal laws and regulations. A Level 1 site evaluation report shall be completed and submitted to the director for review and approval.

C. If an applicant wants to avoid implementation of applicable best management practices, they must submit a Level 2 site evaluation report and develop and implement a monitoring program that consists of the following:

1. Demonstrate, through a Level 2 site evaluation report, how they will prevent degradation to groundwater. The applicant must also meet existing local, state and federal laws and regulations. A Level 2 site assessment report shall be completed and submitted to the director for review and approval; and

2. Develop and implement a monitoring program with quarterly reporting to the department. The director will evaluate the monitoring program and may require periodic changes based on the monitoring results, new technology, and/or BMPs. (Ord. 04-025 § 6 (part), 2004)

18.290.100 Level 1 report contents and approval criteria.

A. Level 1 Site Evaluation Report/Approval Criteria.

1. The site evaluation report shall be done by, or under the direction of, and signed by a qualified groundwater professional. The report will identify appropriate BMPs and show how they will prevent degradation of groundwater.

2. The report will also identify how the applicant will follow the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event hazardous material is released onto the ground or into groundwater.

3. The report will include site-specific hydrogeologic information to support a conclusion of no degradation to groundwater. Hydrogeologic information is available from existing U.S. Geological Survey Reports (A Description of Hydrogeologic Units in the Portland Basin, Oregon and Washington, Water-Resources Investigation Report 90-4196); U.S. Department of Agriculture, Natural Resources

Conservation Service (Soil Survey of Clark County, Washington, 1972); Clark County; the Southwest Washington Health District; and from local purveyors.

4. The report will be reviewed by the director in the same process as the primary development permit. If approved, the applicant will receive a permit allowing the activity on the subject property.

5. The director may waive the requirement for a qualified groundwater professional. This would be done when the site conditions or project mitigations have been, or can be, adequately addressed in the site evaluation report. (Ord. 04-025 § 6 (part), 2004)

18.290.110 Level 2 report contents and report criteria.

A. Level 2 Site Evaluation Report/Approval Criteria. A qualified groundwater professional will determine whether the proposed activity will have any adverse impacts on groundwater in CARAs based upon the requirements of the Safe Drinking Water Act and the Wellhead Protection Area Program, pursuant to Public Water Supplies, Chapter 246-290 WAC; Water Quality Standards for Ground Waters of the State of Washington, Chapter 173-200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC.

B. The Level 2 site evaluation report will include the following:

1. Identification of the proposed development plan, along with potential adverse impacts to water quality (e.g., on-site septic systems and other on-site activities) that may adversely impact groundwater quality underlying or down gradient of the project or project area;

2. Depict an appropriate scale (one inch to two hundred feet) showing the location of abandoned and active wells, springs, and surface water bodies within one thousand feet of the project or project area;

3. Description of the geologic and hydrologic characteristics of the subject property including the following:

a. Lithologic characteristics and stratigraphic relationships,

b. Aquifer characteristics including recharge and discharge areas, depth to and static water-flow patterns, and an estimate of groundwater-flow velocity,

c. Contaminant fate and transport including probable migration pathways and travel time of a potential contaminant release from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s),

d. Appropriate hydrogeologic cross-sections which depict lithology, stratigraphy, aquifer, units, potential or probable contaminant pathways from a chemical release, and rate of groundwater flow, and

e. Existing groundwater quality, a proposal for monitoring groundwater to detect changes and the corrective actions that will be taken if monitoring results indicate contaminants from the site have entered the underlying aquifer(s);

4. The report will be reviewed by the director, who may consult with other agencies or hire consultants in conjunction with the same process as the primary development permit. If approved, the applicant will receive a permit allowing the activity on the subject property. (Ord. 04-025 § 6 (part), 2004)

Chapter 18.300
GEOLOGICALLY HAZARDOUS AREAS

Sections:

18.300.010 Purpose.
18.300.020 Applicability and exemptions.
18.300.030 Designation and mapping.
18.300.040 Report requirements—Geologic hazards.
18.300.050 Permanent protection for geologic hazard areas and buffers.
18.300.060 Geologic hazard area approval criteria.
18.300.070 Steep slope hazard areas.
18.300.080 Landslide hazard areas.
18.300.090 Seismic hazard areas.

18.300.010 Purpose.

The purpose of this section is to safeguard public health, safety and welfare by placing limitations on development in geologically hazardous areas consistent with the requirements of the Growth Management Act and WAC 365-190-080. (Ord. 04-025 § 7 (part), 2004)

18.300.020 Applicability and exemptions.

A. This section applies to all development activities in or within one hundred feet of geologic hazard areas except those activities exempted in subsection B of this section. Geologic hazard areas include steep slope hazard areas, landslide hazard areas and seismic hazard areas.

B. In addition to the general exceptions contained in Chapter 18.260 BGMC, the expansion, remodel, reconstruction or replacement of any structures which will be set back from the geologic hazard area a distance which is greater than or equal to the setback of the original structure and which will not increase the building footprint by more than one thousand square feet inside a steep slope hazard area, landslide hazard area or their buffers is exempt. (Ord. 04-025 § 7 (part), 2004)

18.300.030 Designation and mapping.

A. Geologic hazards are usually localized individual occurrences that may affect only small, separate areas. Because geologic hazards such as areas susceptible to landslides may be small and localized, no complete mapping exists identifying the presence or absence of each geologic hazard at any particular site. Also, activities such as grading and clearing can create or increase slope instability where none was previously identified.

B. Battle Ground shall adopt updated mapping as more detailed information becomes available. Until updated information becomes available, Battle Ground shall refer to the following Clark County hazard maps:

1. Slope Areas Mapping for Clark County, Clark County department of assessment and GIS;

2. Slope Stability of Clark County, Washington Department of Natural Resources, 1975 and landslides mapped in Geologic Map of the Vancouver Quadrangle, Washington and Oregon, Washington Department of Natural Resources, 1987; and

3. Relative Earthquake Hazard Map for the Vancouver, Washington Urban Region, Washington Department of Natural Resources, 1994.

C. Where the geologic hazard area maps and designation criteria conflict, the following designation criteria shall prevail.

1. Steep slope hazard areas include all lands that exceed a forty percent slope;

2. Landslide hazard areas include areas that, due to a combination of slope inclination, soil type and presence of water, are susceptible to landslides in accordance with the following criteria:

a. Areas of previous slope failures including areas of unstable old or recent landslides;

b. Areas with all three of the following characteristics:

i. Slopes steeper than fifteen percent,

ii. Hillsides intersecting geologic contacts with permeable sediment overlying a low permeability sediment or bedrock, and

iii. Any springs or groundwater seepage;

c. Slopes that are parallel or subparallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials;

d. Areas mapped by:

i. Washington Department of Natural Resources Open File Report: Slope Stability of Clark County, as having potential instability, historical or active landslides, or as older landslide debris, and

ii. The Washington Department of Natural Resources Open File Report Geologic Map of the Vancouver Quadrangle, Washington and Oregon, as landslides;

e. Slopes greater than eighty percent, subject to rock fall during earthquake shaking;

f. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and stream undercutting the toe of a slope;

g. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows, debris torrents or catastrophic flooding; and

h. Areas adjacent to open-pit mine sites subject to steep slope hazard or landslide hazard. (Ord. 04-025 § 7 (part), 2004)

18.300.040 Report requirements—Geologic hazards.

A. For development activity regulated by this section, submittal requirements will vary depending on the type of project and the type of hazard mitigations that are proposed. Pursuant to Chapter 18.260 BGMC, a review of a geologic hazard area will be conducted in conjunction with the primary development application. Projects are required to submit a basic site description sufficient to verify that the location of proposed building and access road improvements comply with buffers, setbacks, and vegetation preservation required by BGMC 18.300.070 and 18.300.080. If a nonexempt activity is proposed within a geologic hazard area, additional information in the form of a geologic hazard area study must be provided to assure the project is feasible and will not cause an increased geologic hazard. The information required for a site description is included in subsection C of this section. The requirements for a geologic hazard area study for projects wishing to build in a geologic hazard area are included in subsection D of this section. To avoid duplication, the director shall coordinate the information required by this section with the assessments and requirements for other critical areas.

B. The director shall waive parts of the submittal requirements if the department determines that they are not applicable to the proposed activity.

C. Site Description. As part of the development permit application, the following information describing the subject property and areas within twenty-five feet of the property lines or smaller area of concern as deemed appropriate by the department, drawn to an engineering scale no larger than one inch equals twenty feet and no smaller than one inch equals one hundred feet as deemed appropriate by the director:

1. The site boundary lines;

2. The topography at contour interval of no greater than two feet;

3. The location of all drainage-flow characteristics, streams, groundwater seeps, springs, and evidence of seasonal surface water runoff or groundwater;

4. The location and extent of all existing and proposed grading activities and existing natural or artificial drainage control facilities and systems;

5. The location and description of all geologic hazards located on the site and observed on adjacent properties within one hundred feet of site boundaries;

6. The general location of all vegetation and the general location, number and description of all trees over six-inch diameter measured three feet above the ground; and

7. The location of all proposed buffers and setbacks.

D. Geologic Hazard Area Study. A geologic hazard area study is required if the proposed development does not comply with requirements of BGMC 18.300.070, Steep slope hazard areas, or BGMC 18.300.080, Landslide hazard areas. Geologic investigation may also be required in some cases to meet Uniform Building Code requirements for foundations and for seismic design. Geologic hazard area studies shall be prepared, stamped and signed by a geotechnical engineer or geologist licensed in the state of Washington with expertise in the field. Based on the site characteristics and the information submitted by the applicant, the director may require all or part of the following information to be included in a geotechnical report:

1. The requirements for the site description listed above in subsection C of this section;

2. Site Geology Information.

a. Topographic contours at two-foot intervals or as specified by the director;

b. Subsurface data that includes the exploration method, location of soil borings, borings, logs, soil and rock stratigraphy and groundwater levels including seasonal changes;

c. The location of landslides, or downslope soil movement, faults, and geologic contacts on the subject property and adjacent properties;

d. A site history that describes any prior grading, soil instability or slope failure; and

e. A description of the site vulnerability to seismic events;

3. Geotechnical Information and Plan Requirements.

a. A slope stability study and opinion of slope stability on the subject property and adjacent properties;

b. Grading plan;

c. Structural foundation requirements and estimated foundation settlements;

d. Soil compaction criteria;

e. Allowable soil-bearing pressure for foundations, minimum footing widths, piling recommendations for foundations, and design pressure for retaining walls;

f. Laboratory data and soil index properties for soil samples;

g. Suitability for fill;

h. Lateral earth pressures;

i. Description of erosion vulnerability and an erosion control plan including:

i. A description of the extent and type of vegetative cover;

ii. An estimate of load capacity including surface and groundwater conditions, public and private sewage disposal systems, fills and excavations and all structural development;

iii. An estimate of slope stability and the effect construction and placement of structures will have on the slope over the estimated life of the structure;

iv. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a one-hundred-year storm event;

v. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on down-slope properties;

vi. A study of slope stability including an analysis of proposed angles of cut and fill and site grading;

vii. Recommendations for building limitations, structural foundations, and an estimate of foundation settlement; and

viii. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

j. An evaluation of proposed surface and subsurface drainage in a stormwater control plan including information regarding the collection, transport, treatment, discharge and/or recycle of surface water prepared in accordance with Chapter 18.250 BGMC. The evaluation should consider on-site septic system disposal volumes where the additional volume will affect the erosion or landslide hazard area;

k. Building limitations; and

l. A vegetation management and restoration plan or other means for maintaining long-term stability of slopes;

4. A site evaluation that describes the suitability of the site to accommodate the proposed activity; and

5. Such additional information describing existing physical features for the site and surrounding area as required by the director to complete review of the project under standards of the International Building Code. (Ord. 04-025 § 7 (part), 2004)

18.300.050 Permanent protection for geologic hazard areas and buffers.

A. Steep slope hazard areas and landslide hazard areas and buffers for which permanent protection is required pursuant to BGMC 18.300.070 and 18.300.080 shall be designated landslide protection areas.

B. Landslide protection area requirements apply only to site plans and land divisions. For all development activities subject to this section, landslide protection areas shall be delineated on all land divisions and plots.

C. A conservation covenant applicable to the landslide protection areas shall be recorded in a form approved by the city attorney as adequate to incorporate the restrictions of this section.

D. Prior to any site development activity, the applicant shall mark with temporary markers in the field the boundary of all landslide protection areas required by this section, or the limits of the proposed site disturbance outside of the landslide protection areas, using methods and materials acceptable to the city.

E. Landslide protection area boundaries shall be permanently marked on the site prior to final inspection by the city using methods and materials acceptable to the city.

F. Clearing or vegetation removal in landslide protection areas, steep slope hazard areas or landslide hazard areas or their buffers is prohibited except for:

1. Activities included in an approved geologic hazard area study as defined in BGMC 18.300.040;

2. Limited vegetation removal for surveying and testing necessary for development approvals;

3. Emergency or fire hazard removal authorized by the fire marshal;

4. Removal of nuisance vegetation utilizing methods that minimize disruption of soil and nonnuisance vegetation provided it is replaced with appropriate native vegetation;

5. Clearing necessary for placement or maintenance of fencing;

6. Clearing necessary for hillside vegetation restoration;

7. Clearing necessary for vegetation or resource conservation projects authorized by a public agency; and

8. Clearing for three-foot-wide or narrower footpaths surfaced with wood, soil or gravel. (Ord. 04-025 § 7 (part), 2004)

18.300.060 Geologic hazard area approval criteria.

If an applicant wishes to perform development activities not allowed by BGMC 18.300.070 and 18.300.080, a geologic hazard area study meeting the requirements of BGMC 18.300.040 must be completed. The development proposal may be approved, approved with conditions, or denied based on the director's evaluation of the suitability of the mitigation measures proposed by the geologic hazard

area study to protect life, safety, and slope stability on contiguous properties. (Ord. 04-025 § 7 (part), 2004)

18.300.070 Steep slope hazard areas.

A. Nonexempt development activity on or adjacent to slopes steeper than forty percent that do not have a mapped or designated landslide hazard shall comply with the requirements of this section.

B. Buffer and Setback Distances.

1. Activities at the base of ascending slopes (building at the bottom of a steep slope):

a. For slopes greater than or equal to forty percent and less than one hundred percent, buffers shall extend a distance away from the toe of the slope that is equal to the vertical height of the slope divided by two, but not to exceed fifteen feet. For slopes less than one hundred percent, the toe of the slope is defined as a distinct break in slope at the base of a steep slope.

b. For slopes greater than one hundred percent, the buffer shall extend a distance back from the toe of the slope equal to the height of the slope divided by two, not to exceed fifteen feet. The buffer shall be measured horizontally from a plane, drawn tangent to the top of the slope at an angle of forty-five degrees to the proposed structure.

c. The setback shall be eight feet beyond the buffer.

2. Activities at the tops of descending slopes (building at the top of a steep slope):

a. For slopes greater than or equal to forty percent and less than one hundred percent, buffers shall extend a distance back from the top of the slope equal to the vertical height of the slope divided by three, but not to exceed forty feet. The top of the slope is defined as a distinct break in slope at the top of a steep slope.

b. For slopes greater than one hundred percent, the buffer shall extend a distance back from the top of the slope equal to the height of the slope divided by three, but not to exceed forty feet. The buffer shall be measured horizontally from a plain drawn at forty-five degrees (one hundred percent slope) from the toe of the slope to the proposed structure.

c. The setback shall be eight feet beyond the buffer.

3. For projects not required to have a landslide protection area under BGMC 18.300.050, the setback from the steep slope shall be equal to the buffer distance set in this subsection.

4. The director may approve buffers and setbacks which differ from those required by subsection (B)(1) of this section if the applicant submits a geologic hazard area study described in BGMC 18.300.040, which technically demonstrates and illustrates that the alternative buffer provides protection which is greater than or equal to that provided by the buffer required in subsection (B)(2) of this section.

5. The department may increase buffers or setbacks where necessary to meet requirements of the International Building Code.

6. Other than for exemptions specifically listed, vegetation removal is not allowed on slopes over forty percent without an approved geologic hazard area study described in BGMC 18.300.040.

7. Buffers, landslide protection areas and setbacks for steep slopes on projects having approved grading shall be based on regulated steep slopes that remain after that grading. (Ord. 04-025 § 7 (part), 2004)

18.300.080 Landslide hazard areas.

A. A development proposal on a site containing a landslide hazard area shall meet the following requirements:

1. A minimum buffer of fifty feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a steep slope or erosion hazard or as otherwise necessary to protect the public health, safety and welfare; and

2. All portions of landslide hazard areas and buffers shall be designated as landslide protection areas.

B. Other than exempt activities, clearing or alteration of a landslide hazard area is allowed only if the following are met:

1. A development proposal does not decrease slope stability on contiguous properties; and

2. Mitigation is based on best available engineering and geological practice and is described in an approved geologic hazard area study as specified in BGMC 18.300.040.

C. Neither buffers or a landslide protection area will be required if the activity meets the requirements of subsection (B)(2) of this section. (Ord. 04-025 § 7 (part), 2004)

18.300.090 Seismic hazard areas.

Development activity in a seismic hazard area shall meet all applicable provisions of the Uniform Building Code, as adopted by Battle Ground. The building department shall use the site-specific seismic hazard investigation requirements based on relative earthquake hazard mapping described in Using Relative Earthquake Hazard Mapping for Land Use Planning and Building Permit Administration published by Metro, Portland, Oregon, May 1996, attached as Table 18.300.090.

Table 18.300.090

Site-Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map

Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective is Fully Functional (Acceptable risk is near zero)					
Potential Catastrophe if Damaged	Large dams	4	4	4	4
	Nuclear plants	4	4	4	4
	Facilities using/storing large quantities of hazardous materials	4	3	3	3
Earthquake Performance Objective is Immediate Occupancy (Acceptable risk is very low)					
High-Occupancy with Involuntary or Dependent Occupants	Day care centers <250 kids	3	3	2	1
	Day care centers >250 kids	3	3	2	1
	Schools K—12 <300 students	3	3	2	1
	Schools K—12 >300 students	3	3	2	1
	Convalescent homes <50 persons	3	3	2	1
	Convalescent homes >50 persons	3	3	2	1
	Jails and detention facilities	3	3	2	1
Essential for Emergency Response	Fire and police stations	3	3	3	2
	Garages for emergency vehicles	3	3	3	2
	Water tanks	3	3	3	2
	Structures housing fire suppressants	3	3	3	2
	Government communications centers	3	3	3	2
	Emergency response centers	3	3	3	2
	Hospitals	3	3	3	2
	Medical building with surgical services	3	3	3	2
Critical to the Functioning of Battle Ground	Large power plants	3	3	3	2
	Power interties	3	3	3	2
	Sewage treatment plants	3	3	3	2
	Water plants	3	3	3	2
	Regional highways and bridges and tunnels	3	3	3	2
	Regional rail lines	3	3	3	2
	Airports	3	3	3	2
	Port facilities	3	3	3	2
	Major communications facilities	3	3	3	2
	Telephone exchanges	3	3	3	2

	Radio and TV stations	3	3	3	2
Earthquake Performance Objective is Damage Control (Acceptable risk is very low)					
High Occupancy	Buildings >10 stories	3	3	2	1
	Public and private colleges <500 occupants	3	3	2	1
	Public and private colleges >500 occupants	3	3	2	1
	Public assembly places with >300 capacity	3	3	2	1
	Hotels/motels >50 rooms >60,000' >10 stories	3	3	2	1
	Major industries and employers	3	3	2	1
	Apartments >25 units	3	3	2	1
	Buildings with >150 employees	3	3	2	1
Important Local Impacts if Damaged	Facilities using/storing small quantities of hazardous materials	3	3	2	1
	Small dams that could cause flooding	3	3	2	1
	Gas stations	2	2	2	1
	Highways, streets, bridges	2	2	2	1
	Utility lines, substations, and gas mains	3	3	2	1
	Water and sewer mains	3	3	2	1
	Industries/business important to economy	2	2	2	1
	Health care clinics	2	2	2	1
	Co-generation power plants	3	3	2	1
Earthquake Performance Objective is Substantial Life Safety (Acceptable risk is moderate)					
Moderate Occupancy	Buildings with 4 to 10 stories	3	3	2	1
	Apartments 9 to 25 units (b)	3	3	2	1
	Buildings with 50 to 150 employees	3	3	2	1
	Buildings with 50 to 150 employees >60,000' >10 stories	3	3	2	1
	Public assembly places: 50 to 300 capacity	3	3	2	1
	Hotels/motels <50 rooms <60,000' <10 stories	3	3	2	1
Low Occupancy	Apartment buildings with 2 to 8 units (a)	2	2	1	1
	Buildings with <50 employees (a)	2	2	1	1
	Buildings with 1 to 3 stories (a)	2	2	1	1
	Public assembly places with <50 capacity (a)	2	2	1	1
	Single-family houses (b)	2	2	1	1
	Manufactured dwelling (b)	2	2	1	1

4 = Site investigation with panel peer review required.

3 = Site investigation required unless data suggest otherwise.

2 = Site investigation not required unless data suggest otherwise.

1 = Site investigation not required.

(a) Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.

(b) Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency.

(Ord. 04-025 § 7 (part), 2004

Chapter 18.310
FREQUENTLY FLOODED AREAS

Sections:

18.310.010 Purpose.
18.310.020 General provisions.
18.310.030 Administration.
18.310.040 Variance procedure.
18.310.050 Provisions for flood hazard protection.
18.310.060 Severability.

18.310.010 Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplain, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 04-025 § 8 (part), 2004)

18.310.020 General provisions.

A. Land to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Battle Ground.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Clark County, Washington, and Incorporated Areas” dated September 5, 2012, with accompanying flood insurance rate maps as may be amended, is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at City Hall.

C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both, for each violation and, in addition, shall pay all costs and expenses involved in the case.

Nothing herein contained shall prevent the city council of the city of Battle Ground from taking such other lawful action as is necessary to prevent or remedy any violation. Violation of this chapter shall be deemed to be a nuisance. (Ord. 12-06 § 2, 2012: Ord. 04-025 § 8 (part), 2004)

18.310.030 Administration.

A. Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in BGMC 18.310.020. The permit shall be for all structures including manufactured homes and for all other development including fill and other activities as defined in Chapter 18.260 BGMC.

B. Designation of the Floodplain Administrator. The planning director or designee is the floodplain administrator duly authorized and shall be vested with the authority to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city of Battle Ground and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level to which any structure has been flood proofed;

3. Certification by a registered professional engineer or architect that the flood proofing methods for a nonresidential structure meet the flood proofing criteria in BGMC 18.310.050(B)(3); and

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

D. Duties and Responsibilities of the Floodplain Administrator. Duties of the director shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of BGMC 18.310.050(D) are met.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with BGMC 18.310.020(B), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer BGMC 18.310.050 (B)(1), Specific Standards, Residential Construction, and (B)(3), Specific Standards, Nonresidential Construction.

3. Information to Be Obtained and Maintained. The floodplain administrator shall:

a. Obtain and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

b. For all new or substantially improved flood proofed structures:

i. Verify and record the actual elevation to which the structure was flood proofed, in relation to mean sea level, and

ii. Maintain the flood proofing certifications required in BGMC 18.310.050(B).

c. Maintain for public inspection all records pertaining to the provisions of this chapter.

4. Alteration of Watercourses. The floodplain administrator shall:

a. Notify adjacent communities, the Clark County public works department, and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. The city floodplain administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76). (Ord. 12-06 § 3, 2012: Ord. 04-025 § 8 (part), 2004)

18.310.040 Variance procedure.

A. Appeals.

1. The hearing examiner, as established by the city of Battle Ground, shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The hearing examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the board of adjustment, or any taxpayer, may appeal such decision to the Clark County superior court for a writ of review within a period of thirty days from the date of decision.

4. In passing upon such applications, the hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in time of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

5. Upon consideration of the factors contained in the preceding section and the purposes of this chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6. The city shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Administration upon request.

B. Conditions for Variances.

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (A)(4)(a) through (k) of this section have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. Variances shall not be issued with a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in BGMC 18.310.050, or conflict with existing local laws or ordinances.

6. Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except BGMC 18.310.050(B)(1), and otherwise complies with BGMC 18.310.050(A)(1) and (2) of the general standards.

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 12-06 § 4, 2012: Ord. 04-025 § 8 (part), 2004)

18.310.050 Provisions for flood hazard protection.

A. General Standards. In all areas of special flood hazard, the following standards are required:

1. Anchoring.

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

b. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

i. Anchoring methods may include but are not limited to use of over-the-top ties to be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than fifty feet long requiring one additional tie per side;

ii. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty feet long requiring four additional ties per side;

iii. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

iv. Any additions to the manufactured home be similarly anchored.

c. An alternative method of anchoring may involve a system designed to withstand a wind force of ninety miles per hour or greater. Certification must be provided to the floodplain administrator that this standard has been met.

d. Reference should be made to the “Manufactured Home Installation Flood Hazard Areas” guidebook for additional techniques, as produced by the Federal Emergency Management Agency.

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

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

c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters;

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

d. Water wells shall be located on high ground that is not in the floodway.

4. Subdivision Proposals.

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres, whichever is less.

5. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in BGMC 18.310.020(B) or 18.310.030(D)(2), the following provisions are required:

1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters.

3. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and review of the structural design, specifications and plans. Certification shall be provided to the city;

d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in subsection (B)(2) of this section;

e. Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g., a building flood proofed to one foot above the base flood level will be rated as at the base flood level).

4. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zone AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A of this section.

5. As provided in FEMA Technical Bulletin 11, below-grade crawlspaces are permitted subject to approval of the city of Battle Ground upon application and subject to the following criteria. FEMA Technical Bulletin 11 is the reference for the provisions of this section.

a. The interior grade is not more than two feet below the lowest exterior adjacent grade.

b. The height of the below-grade crawlspace, as measured from the interior grade to the top of the crawlspace foundation wall, must not exceed four feet at any point, or five feet to the top of the next higher floor.

c. There must be adequate drainage that removes interior flood waters and the velocity of the flood waters must not be more than five feet per second.

d. Utility systems within the crawlspace, particularly ductwork, must be elevated above the BFE, or designed so that flood waters cannot enter or accumulate within system components, or be damaged during flood conditions.

e. All insulation must be located above the BFE.

f. The building must be designed to resist flotation, collapse, and lateral movement resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.

g. Alternative crawlspace design in areas exceeding five feet per second flood velocity must be designed by a qualified architect or engineer.

h. Crawlspaces must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of flood waters.

i. Buildings that have below-grade crawlspaces may have higher flood insurance premiums than buildings that have the preferred crawlspace construction with the interior elevation at or above the lowest adjacent grade. Interpretation and application of these requirements shall be consistent with Official FEMA Technical Bulletin 11, Guidance on Crawlspace Construction.

C. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access to floodplain shall be provided to all critical facilities to the extent possible.

D. Floodways. Located within areas of special flood hazard established in BGMC 18.310.020(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. All encroachments are prohibited, including fill, new construction, substantial improvements, and other development in floodways unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure either (i) before the repair, reconstruction or improvements are started, or (ii) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specification which has been identified by the local code enforcement official and which is the minimum necessary to assure safe living conditions, or to structures identified as historic places shall not be included in the fifty-percent limitation.

3. If subsection (D)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

4. The placement of any manufactured homes in floodways is prohibited.

E. In Areas with Base Flood Elevations but a Regulatory Floodway Has Not Been Designated. No new construction, substantial improvements, or other development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

F. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than one hundred eighty consecutive days, (or)

2. Be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements of subsections (B)(4) and (D)(4) of this section. (Ord. 12-06 § 5, 2012: Ord. 06-16 § 9, 2006: Ord. 04-025 § 8 (part), 2004)

18.310.060 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 12-06 § 6, 2012)