CITY OF BATTLE GROUND
SHORELINE MASTER PROGRAM

Goals, Policies and Regulations
June 2021

ADOPTED Ord. 2021-13, June 7, 2021 date

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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 June 7, 2021 to comply with Shoreline Master Program Guidelines, Washington Administrative Code (WAC) 173-26 and

Approved by the Department of Ecology on July 26, 2021.

EFFECTIVE August 9, 2021

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Official Shoreline Designation Map ..... **Error! Bookmark not defined.**
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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's shorelines include segments of Morgan Creek and Salmon Creek.

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.

4. Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following, as amended by WAC 173-27-044 and -045:
   a) Remedial actions. Pursuant to RCW 90.58.355, 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 70.105D RCW.
   b) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
   c) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

d) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
e) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

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 seven thousand, forty-seven dollars ($7,047) or as periodically adjusted for inflation every five (5) years per WAC 173-27-040, 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 must be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(g). The total cost or fair market value of the development must 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 twenty-two thousand five hundred dollars ($22,500) or as periodically adjusted per WAC 173-27-040,for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced, or eleven-thousand two hundred dollars ($11,200) for all other docks constructed in fresh waters. However, if subsequent construction occurs within five years of completion of the prior construction, and the fair market value of the subsequent and prior construction exceeds the amount specified above, 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. 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.

13. 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.

14. Watershed restoration projects as defined in RCW 89.08.460.

15. Consistent with WAC 173-27-040, 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.

16. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

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.

h. Legally established residential structures may be classified as conforming, even if they do not meet updated standards for setbacks, buffers, or yards; area; bulk; height; or density. Redevelopment, expansion, and replacement is allowed, so long as it is consistent with the local SMP and No Net Loss requirements. Appurtenant structures are included; bulkheads and other shoreline modifications and over-water structures are excluded.

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. Consistent with BCMC 17.149.020, a shoreline variance is reviewed using the Type III variance process. 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. Uses specifically prohibited by this Program may not be authorized.

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

2.8 Moratoria Authority and Requirements

1. Pursuant to RCW 90.58.590, the City may adopt moratorium control or other

interim control.

2. To adopt a moratorium control or other interim control, the City must:

   a. Hold a public hearing on the moratorium or control;

   b. Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

   c. Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.

3. The public hearing must be held within sixty days of the adoption of the moratorium or control.

4. A moratorium of control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

5. A moratorium or control may be renewed for one or more six-month period if the City complies with the requirements in subsection (2) above before each renewal.

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.

   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.

5. 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.

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

7. 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.

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

9. 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.

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

11. 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 Section 4.4.5).

- **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. 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.

2. 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	Aquatic
	Urban/Rural	Aquatic
Natural	Rural/Urban	Natural
	Urban/Rural	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 12-06, dated July 16, 2012;

3. Geologically Hazard Areas, BGMC Chapter 18.300 as adopted by Ordinance 04-025, dated December 6, 2004;

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 06-016, dated September 18, 2006; and

5. Wetlands, BGMC Chapter 18.270 as adopted by Ordinance 2021-12, dated May 17, 2021.

6. Wetland Banking, BGMC Chapter 18.270.120, as adopted by Ordinance 2021-12, dated May 17, 2021.

7. Critical Aquifer Recharge Areas as designated in BGMC Chapter 18.290 as adopted by Ordinance 04-25, dated December 6, 2004.

8. Please see SMP 5.3.2, General Provisions for instances where Critical Area provisions do not apply within shoreline jurisdiction.

5.3.2 General Provisions

1. In addition to the provisions under this section, critical areas located within shoreline jurisdiction and their buffers are regulated and protected by the City critical areas regulations referenced under SMP section 5.3.1 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, BGMC 18.260.020, and BGMC 18.260.070, as well as allowed activities under BCMC 18.260.090 and BCMC 18.270.070 shall not apply within shoreline jurisdiction. These activities require review and a shoreline permit or letter of exemption under the shoreline master program.

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. 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.

8. 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.

9. 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.

10. 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).

11. Provisions for isolated and exempt wetlands in the BGMC 18.270.020, shall not apply within shoreline jurisdiction.

12. 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 shoreline 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**		**UC**				
Shoreline Designation	**Aquatic**		**Urban Conservancy**				
Shoreline Uses							
Agriculture							
Agriculture	**N/A**		**C**				
Setback	**N/A**		**100'**				
Height	**N/A**		**35'**				
Aquaculture							
Aquaculture, General	**P**		**C**				
setback	**0'**		**50'**				
Boating Uses							
Motorized Boat Launches	**P**		**C**				
Non-motorized Boat Launches	**P**		**P**				
Marinas	**X**		**X**				
Setback	**N/A**		**N/A**				
Height							
0-100' from OHWM	**N/A**		**N/A**				
>100' from OHWM	**N/A**		**N/A**				
Docks, Piers, Mooring Buoys	**P**		**P**[1]				
Setback	**0'**		**0'**				
Commercial Uses							
Water-dependent	**X**		**X**				
Setback	**0'**		**N/A**				
Height							
- 0 -100' from OHWM	**N/A**		**N/A**				
- >100' from OHWM	**N/A**		**N/A**				
Water-related, Water-enjoyment	**X**		**X**				
Setback	**N/A**		**N/A**				
Height							
- 0' -100' from OHWM	**N/A**		**N/A**				
- >100' from OHWM	**N/A**		**N/A**				
Non-water-oriented	**X**		**X**				
Setback	**N/A**		**N/A**				
Height	**N/A**		**N/A**				
Forestry							
Log Storage	**X**		**X**				
Setback	**0'**		**N/A**				
Timber Harvest	**X**		**X**				
• *Setback*	**N/A**		**N/A**				
Industrial Uses							
Water-dependent	**X**		**X**				
Setback	**0'**		**N/A**				
Height							
- 0-100' from OHWM	**20'**		**N/A**				
- >100 from OHWM	**20'**		**N/A**				
Water-related	**X**		**X**				
Setback	**N/A**		**N/A**				
Height							
- 0-100' from OHWM	**N/A**		**N/A**				
- >100 from OHWM	**N/A**		**N/A**				
Non-water-oriented	**X**		**X**				
Setback	**N/A**		**N/A**				
Height	**N/A**		**N/A**				

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

Abbreviations P = Permitted; C = Conditional Use; X = Prohibited; N/A = Not Applicable; UNL = Unlimited.	**AQ**		**UC**				
Shoreline Designation	**Aquatic**		**Urban Conservancy**				
Navigation Signs	**P**		**P**				
Transportation Uses							
Highways, Arterials, Railroads (parallel to OHWM)	**C**	9	**P**				
Right-of-Way Setback	**0'**		**200'**				
Secondary/Public Access Roads (parallel to OHWM)	**X**		**P**				
Right-of-Way Setback	**NA**		**100'**				
Bridges (perpendicular to shoreline)	**C**		**C**				
Setback	**0'**		**0'**				
Utility Uses							
Above-ground Utilities (parallel to shoreline)	**C**		**P**				
Right-of-Way Setback	**0'**		**100'**				
Structure Height	**15'**		**35'**				
Distribution Pole Height	**0'**		**45'**				
Electrical Transmission Lines	**C**		**C**				
Tower Height	**UNL**		**UNL**				
Underground Utilities (parallel to shoreline)	**C**		**P**				
Right-of-Way Setback	**0'**		**100'**				
Underground Utilities (perpendicular to shoreline)	**C**		**C**				
Right-of-Way Setback	**0'**		**0'**				
Unclassified Uses							
Unclassified Uses	**C**		**C**				
Setback	**0'**		**100'**				
Height	**15'**		**35'**				
Shoreline Modification							
Dredging and Dredge Material Disposal							
Non-maintenance Dredging	**C**		**N/A**				
Maintenance Dredging	**P**		**N/A**				
Dredge Material Disposal	**C**		**X**				
Dredging & Disposal Ecological Restoration/Enhancement	**P**		**P**				
Fill	**C**[5]		**P**				
Flood Control Works and In-stream Structures							
Dams, Dikes, & Levees	**C**		**C**				
In-stream structures	**C**		**N/A**				
Shoreline Restoration							
Ecological Restoration / Enhancement / Mitigation	**P**		**P**				
Shoreline Stabilization							
Bioengineered/Non-Structural	**P**		**P**				
Structural	**C**		**C**				
Breakwaters, Jetties, Rock Weirs and Groins	**X**		**X**				

[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.

13. Special procedures for WSOT projects:
    a. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.
    b. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

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 173-26-090 or WAC 173-26-104.

   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 periodic 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)).

7.5 Permit Filing

1. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits for the project, pursuant to WAC 173-27-130.
    a. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.
    b. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:
        (i) For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.
        (ii) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of Battle Ground.
        (iii) For SDPs simultaneously mailed with a CUP or VAR to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

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).

7.6 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 date of filing of 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 filing;

    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. In the event of a conflict in definitions, the definitions in the SMP shall apply.

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 ca**s**e 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:

    a) Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics, and sediment; and

    b) 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 on a shoreline substantial development permit.
    a) For projects that only require a Shoreline Substantial Development Permit: the date that Ecology receives the City's decision.
    b) For a Shoreline Conditional Use Permit (SCUP) or Shoreline Variance (SVAR): the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and the City.
    c) For SDPs simultaneously mailed with a SCUP or SVAR to Ecology: the date that Ecology's decision on the SCUP or SVAR is transmitted to the applicant and 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. "Development" does not include dismantling or removing structures if there is no other associated development or re-development.

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 Lot** - a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program. *(WAC 173-27-080(1))*.

128. **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".

129. **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))*

130. **Non-Water-Oriented Use or Activity -** a use or activity that is not water-dependent, water-related, or water-enjoyment.

131. **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".

132. **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".

133. **Noxious Weeds -** Non-native plants that are destructive, competitive, and difficult to control as defined by the Washington State Noxious Weed Control Board.

O

134. **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.

135. **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.

136. **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))*.

137. **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

138. **Parking** - the temporary storage of automobiles or other motorized vehicles.

139. **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.

140. **Parking, Principal or primary** - parking that is the principal use on the property and is not accessory to another use.

141. **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.

142. **Permit** - any Substantial Development, Variance, Conditional Use Permit, or revision authorized under chapter 90.58 RCW.

143. **Permitted Use** – a use that is allowed under the rules and regulations of the Shoreline Management Program.

144. **Person -** an individual, partnership, corporation, association, organization, cooperative, public or Municipal Corporation, or agency of the state or local governmental unit however designated.

145. **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.

146. **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.

147. **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.

148. **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)).*

149. **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))*.

150. **Provisions -** policies, regulations, standards, guideline criteria or environment designations.

151. **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)*.

152. **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))*.

153. **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

154. **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

155. **Recreational Development -** includes commercial and public facilities designed and used to provide recreational opportunities to the public.

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 seven thousand forty-seven dollars ($7,047), 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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